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No. 48] NEW DELHI, NOVEMBER 26—DECEMBER 2, 2006, SATURDAY/AGRAHAYANA 5—AGRAHAYANA 11, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 25 नवम्बर, 2006

का.आ. 4521.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महाराष्ट्र राज्य सरकार, गृह (एससी. ए) विभाग की अधिसूचना सं. पीसीआर-1103/सीआर-332/एसपीएल-6 दिनांक 20-11-2006 द्वारा प्राप्त सहमति से भारतीय दंड संहिता की धारा 147, 148, 149, 302, 201, 354 संपठित अनुसूचित जातियां और अनुसूचित जनजातियां (अत्याचार निवारण) अधिनियम, 1989 की धारा 3(1) (2) (5) (10) (11) (15) के अधीन गांव खैरलांजी, जिला भांदरा, महाराष्ट्र में एक दलित परिवार के चार व्यक्तियों की हत्या के संबंध में पुलिस स्टेशन अंधालगांव, जिला भांदरा के अपराध सं. 56/2006 दिनांक 30-9-2006 तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयंत्र तथा उसी संध्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण महाराष्ट्र राज्य पर करती है।

[सं. 228/63/2006-ए.वी.डी.-II]
चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
(Department of Personnel and Training)

New Delhi, the 25th November, 2006

S. O. 4521.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Maharashtra, Home (SC.A) Department vide Notification No. PCR-1103/CR-332/SPL-6 dated 20-11-2006, hereby extends the powers and jurisdiction of the member of the Delhi Special Police Establishment to the whole of the State of Maharashtra for investigation in Crime No. 56/2006 dated 30-9-2006 of P.S. Andhalgaon in Distt. Bhandara under Sections 147, 148, 149, 302, 201, 354 IPC read with sections 3(1)(2) (5) (10) (11) (15) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 regarding the killing of four persons of a dalit family in Village Khairlangi, Distt. Bhandara, Maharashtra and attempts, abetments and conspiracy in relation to or in connection with one or more of the offences mentioned above and other offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/63/2006-AVD-II]
CHANDRA PRAKASH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का.आ. 4522.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23 ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा यह अधिसूचित करती है कि “दि सिनोडिकल बोर्ड आफ हेल्थ सर्विसिस, नई दिल्ली” (इसके बाद “संस्था” कहा गया है) की ओर से किसी व्यक्ति द्वारा प्राप्त की गई कोई आय निम्नलिखित शर्तों के अधधीन कर निर्धारण वर्ष 2006-2007 से 2008-2009 तक के लिए ऐसे व्यक्ति की सकल आय में कराधेय आय के रूप में शामिल नहीं की जाएगी :

- (i) संस्था अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है तथा उस मामले में जहां इसकी पंद्रह प्रतिशत से अधिक आय 1 अप्रैल, 2002 के पहले दिन में या उसके पश्चात् आय एकत्र की गई है, इसकी आय के चयन की राशि के पंद्रह प्रतिशत से अधिक होने की अवधि किसी भी स्थिति में पांच वर्ष से अधिक नहीं होनी चाहिए;
- (ii) संस्था उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से अपनी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार संस्था के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) संस्था आय कर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;
- (v) विघटन की स्थिति में संस्था की अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

यह अधिसूचना केवल संस्था की ओर से आय के प्राप्तकर्ता पर ही लागू होगी न कि इस तरह के प्राप्तकर्ता द्वारा किसी अन्य प्राप्ति अथवा आय पर। संस्था की कराधेयता अथवा अन्यथा आय पर,

आयकर अधिनियम, 1961 के उपबंधों के अनुसार पृथक रूप से विचार किया जाएगा।

[अधिसूचना सं. 320/2006/फा. सं. 197/107/2006-आयकर नि.-I]

दीपक गर्ग, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4522. — In exercise of powers conferred by the sub-clause (iv) of the Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that any income received by any person on behalf of “The Synodical Board of Health Services, New Delhi” (hereinafter the “Institution”) shall not be included in the total income of such person as assessable for the Assessment Years 2006-07 to 2008-09 subject to the following conditions :

- (i) the Institution will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years;
- (ii) the Institution will not invest or deposit its fund (other than voluntary contribution and maintained in the form of jewellery, furniture, etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of the Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the Institution and separate books of account are maintained in respect of such business;
- (iv) the Institution will regularly file its return of income before the Income tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution of the Institution, its surplus and the assets will be given to an organization with similar objectives.

This notification is applicable only to the recipients of income on behalf of the Institution and not to any other receipt or income of such recipients. Taxability or otherwise of the income of the Institution would be separately considered as per the provisions of the Income tax Act, 1961.

[Notification No. 320/2006/F. No. 197/107/2006-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 14 नवम्बर, 2006

(आयकर)

का. आ. 4523.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 1-4-2004 से 31-3-2007 तक की अवधि के लिए भारतीय संस्कृति दर्शन ट्रस्ट, विश्व शान्ति धाम, वाघोली, टेल. हवेली, जिला-पुणे अनुसंधान के रूप में हैं, जो अंशतः अनुसंधान कार्य-कलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।
- (iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा :-
 - (क) जिसमें संगठन द्वारा सामाजिक विज्ञान अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उपधारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।
 - (ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 319/2006/फा. सं. 203/12/2006-आयकर नि.-II]

रेनू जीहरी, निदेशक (आयकर नि.-II)

New Delhi, the 14th November, 2006

(INCOME-TAX)

S.O. 4523.—It is hereby notified for general information that the organization Bharatiya Sanskriti Darshan Trust, Viswa Shanti Dham, Wagholi, Tal. Haveli, Dist. Pune has been approved by the Central Government

for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 for the period from 1-4-2004 to 31-3-2007 under the category 'other Institution' partly engaged in research activities subject to the following conditions :-

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax /Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :-
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 319/2006/F. No. 203/12/2006-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का. आ. 4524.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 'संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2005 से 31-3-2008 तक की अवधि के लिए आई रिसर्च सेंटर, चेन्नई को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आयकर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस

अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा :—

(क) जिसमें संगठन द्वारा सामाजिक विज्ञान अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उपधारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 327/2006/फा. सं. 203/28/2006-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4524.—It is hereby notified for general information that the organization Eye Research Centre, Chennai has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from 1-4-2005 to 31-3-2008 under the category 'other Institution' partly engaged in research activities subject to the following conditions :—

(i) The approved organization shall maintain separate accounts for its research activities.

(ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax /Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.

(iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—

(a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.

(b) certifying that the expenditure incurred was for scientific research.

[Notification No. 327/2006/(F. No. 203/28/2006-ITA-II)]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का. आ. 4525.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2003 से 31-3-2006 तक की अवधि के लिए मैसर्स इंटरनेशनल एडवांसड रिसर्च सेन्टर फॉर पावर मेटलर्जी एंड न्यू मेटिरियल्स (ए आर सी-1), डा. खाना बेलापुर, रेंज रेड्डी-जिला-500 005 (आंध्र प्रदेश) (और न कि अनुसंधान के लिए) एक मात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।

(ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा :—

(क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उप-धारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 324/2006/फा. सं. 203/45/2005-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4525.—It is hereby notified for general information that the organization M/s. International Advanced Research Centre for Power Metallurgy and New Materials, (ARC-I) P.O. Balapur, Ranga Reddy Dist., 500 005 (A.P.) has been approved by the Central Government for the purpose of clause (ii) of Sub-section (1) of Section

35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from 1-4-2003 to 31-3-2006 under the category of 'scientific research association' (existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income and Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income and Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 324/2006/F. No. 203/45/2005-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

क्र. आ. 4526.—सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2005 से 31-3-2008 तक की अवधि के लिए नेशनल हेल्थ एंड एजुकेशन सोसाइटी, पी.डी. हिन्दुजा नेशनल हॉस्पिटल एंड मेडिकल रिसर्च सेंटर, मुम्बई और न कि अनुसंधान के लिए एक मात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है, जो अंशतः अनुसंधान कार्य-कलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस

अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

- (iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा :—

(क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उप-धारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 326/2006/फा. सं. 203/34/2006-आयकर नि.-II]

रेणू जोहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4526.—It is hereby notified for general information that the organization National Health and Education Society, P.D. Hinduja National Hospital and Medical Research Centre, Mumbai has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from 1-4-2005 to 31-3-2008 under the category 'other Institution' partly engaged in research activities (and not as a 'scientific research association' existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income and Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income and Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 326/2006/F. No. 203/34/2006-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का. आ. 4527.—सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2005 से 31-3-2008 तक की अवधि के लिए सेंट्रल इंडिया इंस्टीट्यूट ऑफ मेडिकल साइंसेज, 88/2, बजाज नगर, नागपुर-440010 (और न कि अनुसंधान के लिए एक मात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है), को जो अंशतः अनुसंधान कार्य-कलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

- (iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा :—

- (क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उप-धारा (1) (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।
- (ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 325/2006/फा. सं. 203/32/2006-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4527.—It is hereby notified for general information that the organization Central India Institute of Medical Sciences, 88/2 Bajaj Nagar, Nagpur-440 010 has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from 1-4-2005 to 31-3-2008 under the

category 'other Institution' partly engaged in research activities (and not as a 'scientific research association' existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income and Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income and Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 325/2006/F. No. 203/32/2006-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का. आ. 4528.—सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2002 से 31-3-2004 तक की अवधि के लिए मैसर्स मातृवाणी इंस्टीट्यूट ऑफ एक्सपेरिमेंटल रिसर्च एण्ड एजुकेशन, 6ए, सेवन टैंक्स लेन, कोलकाता-700030 जो अंशतः अनुसंधान कार्य-कलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाणपत्र भी संलग्न करेगा :-

(क) जिसमें संगठन द्वारा सामाजिक विज्ञान अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उप-धारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 323/2006/फा. सं. 203/1/2005-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4528.—It is hereby notified for general information that the organization M/s. Matrivani Institute of Experimental Research and Education, 6A, Seven Tanks Lane, Kolkata-700030 has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 for the period from 1-4-2002 to 31-3-2004 under the category 'Other Institution' partly engaged in research activities subject to the following conditions :—

(i) The approved organization shall maintain separate accounts for its research activities.

(ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.

(iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—

(a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.

(b) certifying that the expenditure incurred was for scientific research.

[Notification No. 323/2006 /F. No. 203/1/2005-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का. आ. 4529.—सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर

अधिनियम, 1961 की धारा 35 की उप-धारा (1) के खंड (iii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2002 से 31-3-2005 तक की अवधि के लिए सोशल पोलिसी रिसर्च इंस्टीट्यूट, 5-डी, झलाना इंस्टीट्यूशनल एरिया, जयपुर जो अंशतः अनुसंधान कार्य-कलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

(i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।

(ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाणपत्र भी संलग्न करेगा :-

(क) जिसमें संगठन द्वारा सामाजिक विज्ञान अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उप-धारा (1) खंड (iii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय सामाजिक विज्ञान अनुसंधान के लिए ही था।

[अधिसूचना सं. 322/2006/फा. सं. 203/11/2006-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4529.—It is hereby notified for general information that the organization Social Policy Research Institute, 5-D, Jhalana Institutional Area, Jaipur has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 for the period from 1-4-2002 to 31-3-2005 under the category 'Other Institution' partly engaged in research activities subject to the following conditions :—

(i) The approved organization shall maintain separate accounts for its research activities.

(ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of

Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.

- (iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—

- (a) specifying the amount received by the organization for research in Social Sciences in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of section 35.
- (b) certifying that the expenditure incurred was for social sciences.

[Notification No. 322/2006/F. No. 203/11/2006-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 15 नवम्बर, 2006

(आयकर)

का. आ. 4530.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ विश्वविद्यालय, कालेज और 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2000 से 31-3-2003 तक की अवधि के लिए चारुतर विद्या मंडल, वल्लभ विद्यानगर, आनन्द, गुजरात (और न कि अनुसंधान के लिए एक मात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है) को जो अंशतः अनुसंधान कार्यकलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अनुमोदित संगठन अपने अनुसंधान कार्यकलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।
- (iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाणपत्र भी संलग्न करेगा :—
 - (क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उप-धारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 321/2006/फा. सं. 203/71/2000-आयकर नि.-II]

रेनु जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 15th November, 2006

(INCOME-TAX)

S.O. 4530.—It is hereby notified for general information that the organization Charutar Vidya Mandal, Vallabh Vidyanagar, Anand, Gujarat has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 for the period from 1-4-2000 to 31-3-2003 under the category, University, College or other Institution' partly engaged in research activities (and not as a 'scientific research association' existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 321/2006/F. No. 203/71/2000-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 16 नवम्बर, 2006

(आयकर)

का. आ. 4531.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2006 से 31-3-2009 तक की अवधि के लिए फाउंडेशन फॉर रीविटेलाइजेशन ऑफ लोकल हेल्थ ट्रेडिंसस, बंगलौर (और न कि अनुसंधान के लिए एकमात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है) को जो अंशतः

अनुसंधान कार्यकलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्यकलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।
- (iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण पत्र भी संलग्न करेगा :-
 - (क) जिसमें संगठन द्वारा सामाजिक विज्ञान अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उपधारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।
 - (ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 339/2006/फा. सं. 203/48/2006-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 16th November, 2006

(INCOME-TAX)

S.O. 4531.—It is hereby notified for general information that the organization Foundation of Revitalisation of Local Health Traditions, Bangalore has been approved by the Central Government for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income-tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 for the period from 1-4-2006 to 31-3-2009 under the category 'other Institution' partly engaged in research activities (and not as a 'scientific research association' existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income & Expenditure account referred to

in paragraph (ii) above, a certificate from the auditor :—

- (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
- (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 339/2006 /F. No. 203/48/2006-ITA-III]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 16 नवम्बर, 2006

(आयकर)

का. अ. 4532.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2004 से 31-3-2007 तक की अवधि के लिए मैसर्स केलकर एजुकेशन ट्रस्ट, मुम्बई (और न कि अनुसंधान के लिए एकमात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है) को जो अंशतः अनुसंधान कार्यकलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्यकलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।
- (iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण-पत्र भी संलग्न करेगा :-

- (क) जिसमें संगठन द्वारा सामाजिक विज्ञान अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 की उपधारा (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।
- (ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 340/2006/फा. सं. 203/40/2005-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 16th November, 2006

(INCOME-TAX)

S.O. 4532.—It is hereby notified for general information that the organization M/s Kelkar Education Trust, Mumbai has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with

Rule 6 of the Income-tax Rules, 1962 for the period from 1-4-2004 to 31-3-2007 under the category 'other Institution' partly engaged in research activities (and not as a 'scientific research association' existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 340/2006/F. No. 203/40/2005-ITA-II]

RENU JAUHRI, Director (ITA-II)

नई दिल्ली, 16 नवम्बर, 2006

(आयकर)

का. आ. 4533.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2001 से 31-3-2004 तक की अवधि के लिए मैसर्स पी. एस. जी. कॉलेज ऑफ टेक्नोलॉजी, कोयम्बटूर (और न कि अनुसंधान के लिए एकमात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है) को जो अंशतः अनुसंधान कार्यकलापों में कार्यरत है, को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।
- (ii) वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त अथवा आयकर निदेशक (छूट) को आय कर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर, जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii) यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाण-पत्र भी संलग्न करेगा :—

- (क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35 (1) खंड (ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र हैं।
- (ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए हो था।

[अधिसूचना सं. 341/2006/फा. सं. 203/80/2002-आयकर नि.-II]

रेनू जौहरी, निदेशक (आयकर नि.-II)

New Delhi, the 16th November, 2006

(INCOME-TAX)

S.O. 4533.—It is hereby notified for general information that the organization M/s P.S.G. College of Technology, Coimbatore has been approved by the Central Government for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 for the period from 1-4-2001 to 31-3-2004 under the category 'other Institution' partly engaged in research activities (and not as a 'scientific research association' existing solely for research) subject to the following conditions :—

- (i) The approved organization shall maintain separate accounts for its research activities.
- (ii) For each of the financial years for which this approval is being given, the approved organization shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under Sub-section (1) of Section 35 of I.T. Act, 1961 to the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.
- (iii) The approved organization shall also enclose with the Income & Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—
 - (a) specifying the amount received by the organization for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.
 - (b) certifying that the expenditure incurred was for scientific research.

[Notification No. 341/2006/F. No. 203/80/2002-ITA-II]

RENU JAUHRI, Director (ITA-II)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 23 नवम्बर, 2006

का. आ. 4534.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड (9) के उपखण्ड (1) और 2(क) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (च)

द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री कमल भूषण, मुख्य प्रबंधक, ओरियंटल बैंक आफ कामर्स, सफदरजंग एनक्लेव शाखा, नई दिल्ली, को अधिसूचना जारी होने की तारीख से तीन वर्ष की अवधि के लिए अथवा उनका उत्तराधिकारी नामित होने तक अथवा उनके ओरियंटल बैंक आफ कामर्स का अधि कारी बने रहने तक, इनमें से जो भी पहले हो, ओरियंटल बैंक आफ कामर्स के बोर्ड में अधिकारी कर्मचारी निदेशक के रूप में नामित करती है।

[फा. सं. 9/25/2001-बीओ-1]

जी. बी. सिंह, उप सचिव

(Department of Economic Affairs)
(BANKING DIVISION)

New Delhi, the 23rd November, 2006

S.O. 4534.—In exercise of the powers conferred by clause (f) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) and (2)(a) of Clause (9) of the National Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby nominates Shri Kamal Bhushan, Chief Manager, Oriental Bank of Commerce, Safderjung Enclave Branch, New Delhi, as Officer Employee Director on the Board of Directors of Oriental Bank of Commerce for a period of three years from the date of notification or until his successor has been nominated or until he ceases to be an officer of Oriental Bank of Commerce, whichever is earlier.

[F. No. 9/25/2001-BO-I]

G. B. SINGH, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 23 नवम्बर, 2006

क्र.आ. 4535.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) (ख) के अनुसरण में डा. एस. वी. पटेल, प्रोफेसर, शरीर रचना विज्ञान, गवर्नमेंट मेडिकल कालेज, भावनगर, काय चिकित्सा संकाय के सदस्य, भावनगर विश्वविद्यालय को इस अधिसूचना के जारी होने की तारीख से पांच वर्षों की अवधि के लिए भावनगर विश्वविद्यालय की कोर्ट द्वारा भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में निर्वाचित किया गया है।

अतः, अब, उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंध के अनुसरण में केन्द्र सरकार एतद्वारा तत्कालीन स्वास्थ्य मंत्रालय भारत सरकार की अधिसूचना संख्या का.आ. 138 दिनांक 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में "धारा 3 की उपधारा (1) के खण्ड (ख) के अधीन निर्वाचित" शीर्षक के अंतर्गत क्रम संख्या 77 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात् :-

- "77. डा. एस. वी. पटेल भावनगर,
प्रोफेसर, शरीर रचना विज्ञान, विश्वविद्यालय"
गवर्नमेंट मेडिकल कालेज,
भावनगर (गुजरात)

[सं. वी-11013/2/2001-एम.ई. (नैति-1)]

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 23rd November, 2006

S.O. 4535.—Whereas in pursuance of the provision of sub-section (1) (b) of Section 3 of the Indian Medical Act, 1956 (102 of 1956) Dr. S. V. Patel, Professor of Anatomy, Government Medical College, Bhavnagar, member of the faculty of Medicine, Bhavnagar University has been elected by the Court of the Bhavnagar University to be a member of Medical Council of India for five years with effect from date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the Ministry of Health number S.O. 138 dated the 9th January, 1960, namely :-

In the said Notification, under the heading, "Elected under clause (b) of sub-section (1) of Section 3", for the serial number 77 and the entries relating thereto, the following entries shall be substituted, namely :-

- "77. Dr. S. V. Patel, Bhavnagar,
Professor of Anatomy, University
Government Medical College,
Bhavnagar, (Gujarat).

[No. V-11013/2/2001-ME (Policy-I)]

S. K. MISHRA, Under Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 13 नवम्बर, 2006

क्र. आ. 4536.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम 1976 के नियम 10 के उप-नियम (4) के अनुसार, नागर विमानन मंत्रालय के अधीनवर्ती कार्यालय, भारतीय होटल निगम के मुंबई स्थित शाखा कार्यालय सैफेयर फ्लाइट कैटरिंग के 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. ई-11020/6/2006-रा.भा.]

चन्द्रभान नारनौली, निदेशक (राजभाषा)

MINISTRY OF CIVIL AVIATION

New Delhi, the 13th November, 2006

S.O. 4536.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for the official purposes of the Union) Rules, 1976, the Central Government, hereby notifies, the Office of CHEFAIR Flight Catering, Mumbai, a branch of Hotel Corporation of India Ltd., which is a subordinate office of Ministry of Civil Aviation, whereof, more than 80% staff have acquired the working knowledge of Hindi.

[No. E-11020/6/2006-O.L.]

C. B. NARNAULI, Director (OL)

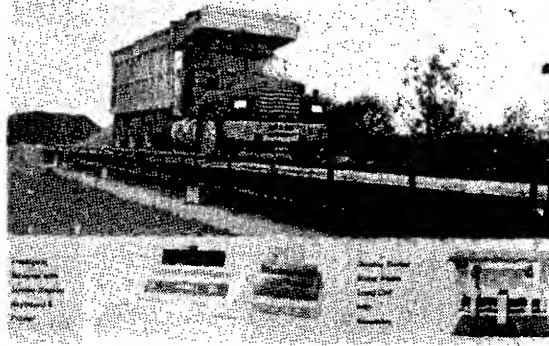
उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4537.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स स्मार्ट वेइंग सिस्टम्स, बी-13, गीतांजली टावर, अजमेर रोड, डा. व्यास हास्पिटल के सामने, जयपुर, राजस्थान द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एस डब्ल्यू बी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (वे ब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम “स्मार्टरक” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/481 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल अंकक सूचन सहित विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (वे ब्रिज प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि को शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^6 , 2×10^6 या 5×10^6 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(136)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

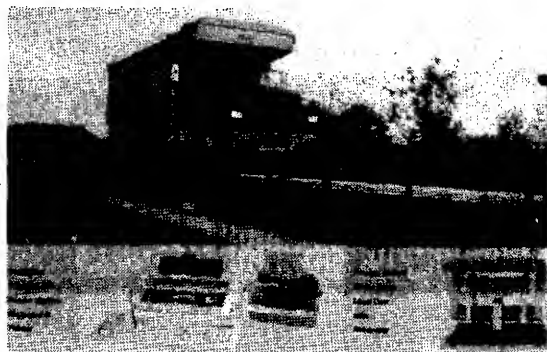
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 17th October, 2006

S.O. 4537.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing instrument (weighbridge type) with digital indication belonging to medium accuracy (Accuracy class-III) of "SWB" series and with brand name "SMARTRK" (hereinafter referred to as the said Model), manufactured by M/s. Smart Weighing Systems, B-13, Gitanjali Tower, Ajmer Road, Opp. Dr. Vyas Hospital, Jaipur, Rajasthan and which is assigned the approval mark IND/09/06/481.



The said Model is a strain gauge type load cell based non-automatic weighing instrument (weighbridge type) with a maximum capacity of 30 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

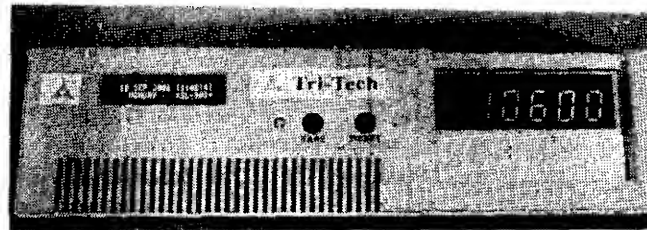
[F.No. WM-21(136)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4538.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ट्राइडेंट टेक्नोलॉजीज, न. 3, अमृता हिल्स अपार्टमेंट, टी.पी.टी. कालोनी, विशाखापट्टनम-530013 द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “टी टी-एफ ई डब्ल्यू बी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (मल्टी लोड सेल प्रकार-वे ब्रिज) के मॉडल का, जिसके ब्रांड का नाम “ट्राइ-टेक” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन विह्व आई एन डी/09/06/482 समनुदर्शित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल अंकक सूचन सहित मल्टी लोड सेल प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 60 टन और न्यूनतम क्षमता 400 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 20 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 5 टन से अधिक और 150 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^6 , 2×10^6 या 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

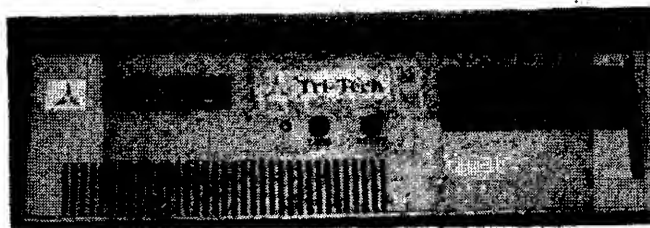
[फा. सं. डब्ल्यू एम-21(180)/2006]

आर. माथुरबूधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4538.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self indicating non-automatic (multi load cell type electronic weighbridge) weighing instrument with digital indication of "TT-FEWB" series of medium accuracy (Accuracy class-III) and with brand name "TRI-TECH" (hereinafter referred to as the said model), manufactured by M/s. Trident Technologies, No. 3, Amrutha Hills Apartments, T.P.T. Colony, Visakhapatnam-530013 and which is assigned the approval mark IND/09/06/482;



The said model is multi load cell based weigh-bridge type weighing instrument with a maximum capacity of 60 tonne and minimum capacity of 400kg. The verification scale interval (e) is 20kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing results. The instrument operates on 230Volts and 50 Hertz alternate current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, and performance of same series with maximum capacity above 5 tonne and upto 150 tonne with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

(F. No. WM-21(180)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4539.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ट्राइडेंट टेक्नोलोजीज, नं० 3, अमृथा हिल्स अपार्टमेंट, टी.पी.टी. कालोनी, विशाखापट्टनम-530013 द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "टी टी-कोन" शृंखला के अंकक सूचन सहित, हाईब्रिड प्रकार का अस्वचालित तोलन उपकरण (वे ब्रिज कनवर्जन किट प्रकार) के मॉडल का, जिसके ब्रांड का नाम "ट्राइ-टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/483 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल अंकक सूचन सहित विकृति गेज प्रकार का लोड सेल आधारित हाईब्रिड प्रकार का अस्वचालित तोलन उपकरण (वे ब्रिज कनवर्जन किट) है। इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 200 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 10 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 या 5×10^4 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

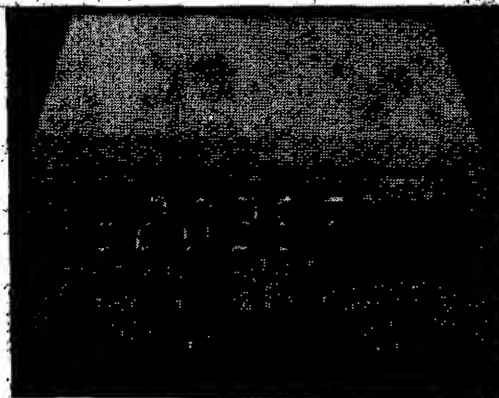
[फा. सं. डब्ल्यू एम-21(180)/2006]

आर. माधुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4539.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of hybrid type non-automatic weighing instrument (conversion kit for weighbridge) with digital indication belonging to medium accuracy (Accuracy class III) of "TT-CON" series with brand name "TRI-TECH", manufactured by M/s. Trident Technologies, No. 3, Amrutha Hills Apartments, T.P.T. Colony, Visakapatnam-530013 and which is assigned the approval mark IND/09/06/483;



The said model is a strain gauge type load cell based hybrid type non-automatic weighing instrument (conversion kit for weighbridge) with a maximum capacity of 40 tonne and minimum capacity of 200kg. The verification scale interval (e) is 10kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model have been manufactured.

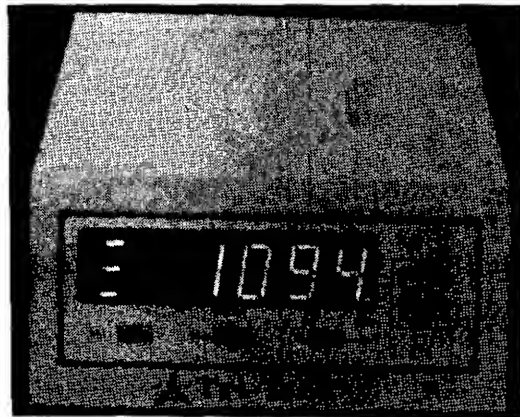
[F.No. WM-21(180)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

क्र. आ. 4540.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ट्राइडेंट टेक्नोलॉजीज, नं० 3, अमृथ हिल्स अपार्टमेंट, टी.पी.टी. कालोनी, विशाखापट्टनम-530013 द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "टी टी-एस एस सी ओ एन्" शृंखला के अंकक सूचन सहित स्वतः सूचक, अस्वचालित तोलन उपकरण (प्लेटफार्म कनवर्जन किट प्रकार) के मॉडल का, जिसके ब्रांड का नाम "ट्राइ-टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/484 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म कनवर्जन किट प्रकार) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम प्रदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(180)/2006]

आर. माथुरबुधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4540.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing Instrument with digital indication (conversion kit for platform) with "TT-SSCON" series belonging to medium accuracy (Accuracy class III) and with brand name "TRI-TECH" (hereinafter referred to as the said model), manufactured by M/s. Trident Technologies, No. 3, Amrutha Hills Apartments, T.P.T. Colony, Visakapatnam-530013 and which is assigned the approval mark IND/09/06/484;



The said model is a strain gauge type load cell based non-automatic weighing instrument (conversion kit for platform) with a maximum capacity of 1000 kg and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 5000 kg with number of verification scale interval (n) in the range of 500 to 10,000 for ' e ' value of 50g or more and with ' e ' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model have been manufactured.

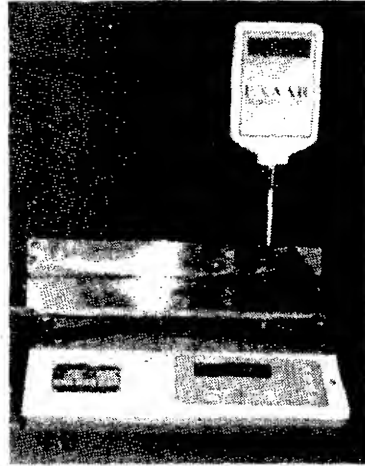
[F.No. WM-214(180)/2006]

R. MATHURBOOTHAM, Director, Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4541.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स पी.आर.एस. मार्केटिंग, 10/1, आर्कोट रोड, काकीथापट्टाई, वेलोर द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'ई एक्स टी' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटोप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एक्सआर" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/491 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबलटोप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

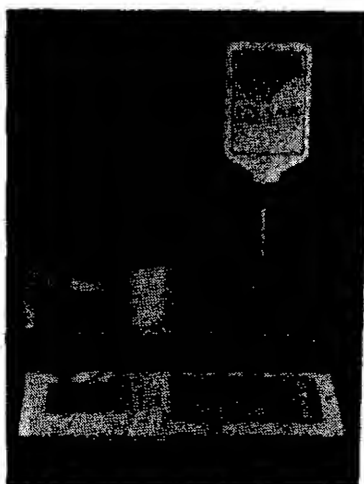
[फा. सं. डब्ल्यू एम-21(176)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4541.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic (Table top type) weighing instrument with digital indication of "EXT" series of medium accuracy (accuracy class-III) and with brand name "EXAAR" (herein referred to as the said Model), manufactured by M/s. P.R.S. Marketing 10/1, Arcot Road, Kakithapattadai, Vellore and which is assigned the approval mark IND/09/06/491.



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity upto 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g or with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g or more and with 'e' value of 1×10^3 , 2×10^3 or 5×10^3 , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

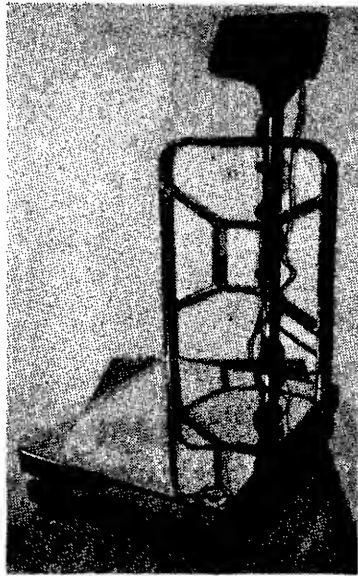
[F. No. WM-21(176)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4542.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स पी.आर.एस. मार्केटिंग, 10/1, आर्कोट रोड, काकीथापट्टाडै, वेलोर द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “ई एक्स पी” शृंखला के अंकक सूचन सहित, स्वतःसूचक अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “एक्सआर” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/492 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत; डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

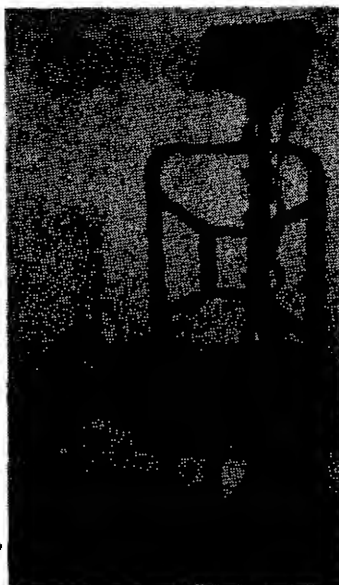
[फा. सं. डब्ल्यू एम-21(176)/2006]

आर. माथुरबूधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4542.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the self indicating non-automatic, (Platform type) weighing instrument with digital indication of "EXP" series of medium accuracy (accuracy class-III) and with brand name "EXAAR" (hereinafter referred to as the said model), manufactured by M/s. P.R.S. Marketing 10/1, Arcot Road, Kakithapattadai, Vellore and which is assigned the approval mark IND/09/06/492;



The said model is a strain gauge type load cell based non-automatic weighing instrument with a maximum capacity of 1000 kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same series with maximum capacity above 50 kg. and up to 5000 kg. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

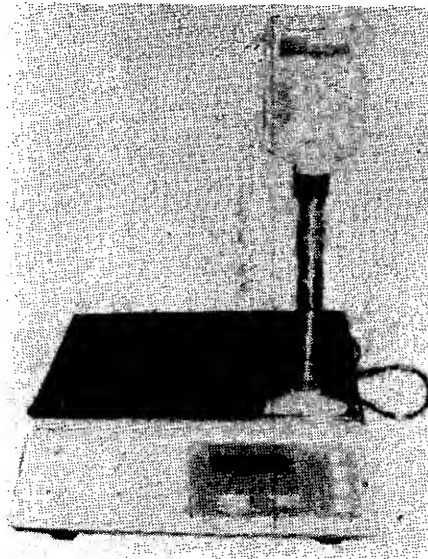
[F. No. WM-21(176)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4543.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अवालांशे सिस्टम्स एन्ड सर्विसेज, 13/6, गोपाल रेड्डी कालोनी, पूर्व मेन रोड, अगारम, चेन्नई-600082 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले 'ई टी टी' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटोप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एक्स्टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/489 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबलटोप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और इस मॉडल को बेचने से पहले अथवा बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक "ई" मान के लिए 100 से 5,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक के रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

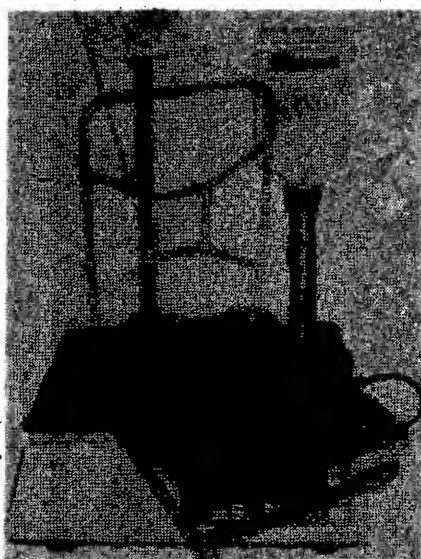
[फा. सं. डब्ल्यू एम-21(164)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4543.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication and of "ETI" series of high accuracy (Accuracy class-II) and with brand name "EXTEC" (herein referred to as the said model), manufactured by M/s. Avalanche Systems and Services, 13/6, Gopal Reddy Colony, East Main Road, Agaram, Chennai-600 082 and which is assigned the approval mark IND/09/06/489;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, and performance of same series with maximum capacity upto 50 kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg. and with verification scale interval (n) in the range of 5,000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^3 , 2×10^3 or 5×10^3 , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21(164)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

क्र. आ. 4544.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अवालांशे सिस्टम्स एन्ड सर्विसेज, 13/6, गोपाल रेड्डी कालोनी, पूर्व मेन रोड, अगारम, चेन्नई-600082 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'ई टी पी' शृंखला के अंकक सूचन सहित, स्वतः सूचक अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एक्स्टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/490 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मॉक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि. ग्रा. से अधिक और 5,000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(164)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4544.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self-indicating, non-automatic (Platform type) weighing instrument with digital indication of "ETP" series of medium accuracy (accuracy class-III) and with brand name "EXTEC" (herein referred to as the said model), manufactured by M/s. Avalanche Systems and Services, 13/6, Gopal Reddy Colony, East Main Road, Agaram, Chennai-600 082 and which is assigned the approval mark IND/09/06/490;



The said model is a strain gauge type load cell based non-automatic weighing instrument with a maximum capacity of 1000kg and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of same series with maximum capacity above 50 kg. and upto 5,000kg and with number of verification scale interval (n) in the range of 5,00 to 10,000 for 'e' value of 5g. more and with 'e' value of 1×10^3 , 2×10^3 or 5×10^3 , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21(164)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4545.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 3 फरवरी, 2006 को सं. 665 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो, एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् विशेष यथार्थता वर्ग (यथार्थता वर्ग I) वाले “जी एक्स-के” श्रृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलैक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/578 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :—

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4545.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 665 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Tabletop Type) with digital indication of “GX-K” series of special accuracy (Accuracy Class-I) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/578”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230 V, 50 Hz Alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

क्र. आ. 4546.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 3 फरवरी, 2006 को सं. 659 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो., एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में विक्रीत विक्रय से पूर्व या पश्चात् उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले “जी पी” शृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एंड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/579 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो. 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4546.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 659 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform Type) with digital indication of “GP” series of high accuracy (Accuracy class-II) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo-170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s. Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/579”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230 V, 50 Hertz alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4547.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 3 फरवरी 2006 को सं. 660 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो. एस बी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् विशेष यथार्थता वर्ग (यथार्थता वर्ग I) वाले “जी पी” शृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/580 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :—

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4547.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 660 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform Type) with digital indication of “GP” series of special accuracy (Accuracy class-I) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo-170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s. Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/580”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230 V, 50 Hertz alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4548.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 3 फरवरी 2006 को सं. 661 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोशिया, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस सो. एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में विक्रीत विक्रय से पूर्व या पश्चात् विशेष यन्त्रबन्धन कर्ग (यन्त्रबन्धन मार्ग I) वाले “बी एफ-के” शृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/581 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है”;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है”।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4548.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 661 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :-

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table top Type) with digital indication of “GF-K” series of special accuracy (Accuracy class-I) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo-170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/581”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230 V, 50 Hertz alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4549,—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख, 3 फरवरी 2006 को सं. 662 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में,—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो., एस बी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् विशेष यथार्थता वर्ग (यथार्थता वर्ग I) वाले “जी एफ” शृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलैक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/582 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :—

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है”।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4549.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 662 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Tabletop Type) with digital indication of “GF” series of special accuracy (Accuracy class-I) and brand name “& Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s. Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/582”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230 V, 50 Hz alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4550.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 3 फरवरी, 2006 को सं. 663 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में,—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोकिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस सी सो., एस बी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्री के लिये से पूर्व या पश्चात् विशेष यथार्थता वर्ग (यथार्थता वर्ग I) वाले “जी एक्स” श्रृंखला के अंकक सूचन सहित स्वतः सूचक, अस्बचलित इलेक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एंड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/583 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एड्याप्टर से जुड़कर 230 वो. 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4550.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 663 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Tabletop Type) with digital indication of “GX” series of special accuracy (Accuracy class-I) and brand name “A & D Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/583”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230V, 50 Hz. Alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz. alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 17 अक्टूबर, 2006

का. आ. 4551.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 3 फरवरी 2006 को सं. 664 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेईंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो., एस बी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् विशेष यथार्थता वर्ग (यथार्थता वर्ग I) वाले “जी पी” शृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलैक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एंड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/584 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है”;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है”।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th October, 2006

S.O. 4551.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 664 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Tabletop Type) with digital indication of “GP” series of special accuracy (Accuracy class-I) and brand name “A & D Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/584”;

(ii) in the existing paragraph 3, for the words “The Liquid Crystal Diode (LCD) display indicates the weighing result. The instrument operates on 230V, 50 Hz alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4552.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सुमो डिजीटल इंक, मार्फत, ब्यरना हाट चक्की मिल ब्यरना हाट, जिला रि-मोई मेघालय द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'एस पी डब्ल्यू' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (व्यक्ति तोलन मशीन) के मॉडल का, जिसके ब्रांड का नाम "सुमो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/73 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 200 कि.ग्रा. और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 100 कि. ग्रा. से 200 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(106)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4552.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) (hereinafter referred to as the said Act) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument with digital indication (Person Weighing Machine) of medium accuracy (Accuracy class-III) belonging to "SPW" series with brand name "SUMO" (hereinafter referred to as the said model), manufactured by M/s. Sumo Digital Inc., C/o Byrana Mat Chakki Mill, Byrana Hat, Distt. Ri-Bhoi, Meghalaya and which is assigned the approval mark IND/09/06/73;



The said model is a strain gauge type load cell based weighing instrument with the maximum capacity of 200kg and minimum capacity is 1kg. The verification scale interval (e) is 50g. The display is of Light Emitting Diode (LED) type. The instrument operates on 230Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity in the range of 100kg to 200kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21(106)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4553.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सुमो डिजीटल इंक, मार्फत, ब्यराना हाट चक्की मिल, ब्यराना हाट, जिला रि-मोई मेघालय द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एस सी एस” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (क्रेन प्रकार) के मॉडल का, जिसके ब्रांड का नाम “सुमो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/74 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित (क्रेन प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 20 टन और न्यूनतम क्षमता 200 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 10 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, कार्यकारी सिद्धांत आदि की शर्तों के संबंध में परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 5 टन से अधिक और 60 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

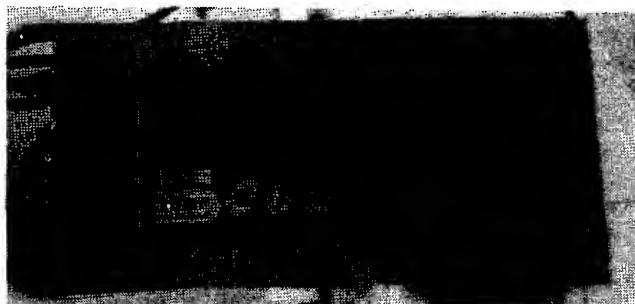
[फा. सं. डब्ल्यू एम-21(106)/2005]

आर. माथुरबूधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4553.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) (hereinafter referred to as the said Act) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Crane type) with digital indication "SCS" series of medium accuracy (Accuracy class-III) and with brand name "SUMO" (hereinafter referred to as the said model), manufactured by M/s. Sumo Digital Inc., C/o Byrana Hat Chakki Mill, Byrana Hat, Distt. Ri-Bhoi, Meghalaya and which is assigned the approval mark IND/09/06/74;



The said model is a strain gauge type load cell principle based non-automatic weighing instrument (Crane type) of medium accuracy (accuracy class-III) with a maximum capacity of 20 tonnes and minimum capacity is 200 kg. The verification scale interval (e) is 10kg. It has a tare device with 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of the same series with maximum capacity above 5 tonnes and up to 60 tonnes and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21(106)/2005]

R. MATHURBOOTHAM, Director, Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4554.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सुमो डिजिटल इंक, मार्फत, ब्याराना हाट चक्की मिल ब्याराना हाट, जिला रि-भोई, मेघालय द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एस सी के” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म के लिए कनवर्शन किट) के मॉडल का, जिसके ब्रांड का नाम “सुमो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/75 समनुदेशित किया गया है; अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृत गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म के लिए कनवर्शन किट) तोलन उपकरण है। इसकी अधिकतम क्षमता 2000 कि.ग्रा. और न्यूनतम क्षमता 10 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 500 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, कार्यकारी सिद्धांत आदि की शर्तों के संबंध में परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 ग्रा. या उससे अधिक के “ई” मान के लिए 5,000 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(106)/2005]

आर. माथुरबुध, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4554 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic weighing instrument with digital indication (Conversion Kit for Platform) with digital "SCK" series belonging to medium accuracy (Accuracy class-III) and with brand name "SUMO" (hereinafter referred to as the said model), manufactured by M/s. Sumo Digital Inc., C/o Byrana hat Chakki Mill, Byrana Hat, Distt. Ri-Bhoi, Meghalaya and which is assigned the approval mark IND/09/06/75;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Conversion Kit for Platform) with a maximum capacity of 2000 kg. and minimum capacity is 10 kg. The verification scale interval (e) is 500g. It has a tare device with 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of the same series with maximum capacity above 50kg. and up to 5000kg. with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 50g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21(106)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4555.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग-II, खंड 3, उपखंड (ii), तारीख 3 फरवरी 2006 को सं. 654 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो. एस बी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले “जी एफ” श्रृंखला के अंकक सूचन, सहित स्वतःसूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एंड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/573 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :—

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4555.—In exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, food and Public Distribution (Department of Consumer Affairs) vide No. 654 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby issued and publishes the certificate of approval of non-automatic weighing instrument (Table top Type) with digital indication of “GF” series of High accuracy (Accuracy class-II) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai-400 058 and which is assigned the approval mark IND/09/05/573”;

(ii) in the existing paragraph 3, for the words “The display unit is of Liquid Crystal Diode (LCD) type. The instrument operates on 230 V, 50 Hertz unit is of alternative current power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

क्र. आ. 4556.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग-II, खंड 3, उपखंड (ii), तारीख 3 फरवरी, 2006 को सं. 655 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जी सो., एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में विक्रीत विक्रय से पूर्व या पश्चात् उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले “जी एपी” शृंखला के अंकक सूचन सहित स्वतःसूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/574 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो., 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4556.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 655 published in the Gazette of India, Part II, Section 3, sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table top Type) with digital indication of “GP” series of High accuracy (Accuracy class-II) and brand name “AND Company Limited” (hereinafter referred to as the said Model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo. 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai—400 058 and which is assigned the approval mark IND/09/05/574”;

(ii) in the existing paragraph 3, for the words “The display unit is of Liquid Crystal Diode (LCD) The instrument operates on 230 V, 50 Hertz Alternative power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4557.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग-II, खंड 3, उपखंड (ii), तारीख 3 फरवरी, 2006 को सं. 656 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशी-इकेबुकुरो, तोषिमा, क्यू. टोक्यो 170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेघा एच एस जॉ सो. एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तन किए विपणित और भारत में बिक्री के लिये से पूर्व या पश्चात् उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले “जी एक्स” शृंखला के अंकक सूचन सहित स्वतः सूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसका ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/575 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो., 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4557.—In exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 656 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :-

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :-

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table top Type) with digital indication of “GX” series of High accuracy (Accuracy class-II) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s. Even Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai—400 058 and which is assigned the approval mark IND/09/05/575”;

(ii) in the existing paragraph 3, for the words “The display unit is of Liquid Crystal Diode (LCD) type. The instrument operates on 230 V, 50 Hertz Alternative power supply”, the following words shall substituted, namely :-

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hertz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4558.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग-II, खंड 3, उप-खंड (ii), तारीख 3 फरवरी, 2006 को सं 657 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में—

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशीइकेबुकुरो तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एबन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेधा एच एस जी सो., एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तित किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले “जी एफ-के” शृंखला के अंकक सूचक सहित स्वतः सूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/576 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपरिष्ठ करता है। उपकरण 230 वो., 50 हर्ट्ज, प्रत्यवर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपरिष्ठ करता है। उपकरण प्रत्यवर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है”।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4558.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) *vide* No. 657 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely :—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely :—

“Now, therefore, in exercise of the powers conferred by sub-Sections (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table top Type) with digital indication of “GF-K” series of high accuracy (Accuracy class-II) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s. Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai - 400 058 and which is assigned the approval mark IND/09/05/576”;

(i) in the existing paragraph 3, for the words “The display unit is of Liquid Crystal Diode (LCD) type. The instrument operates on 230 V, 50 Hz alternative power supply”, the following words shall substituted, namely :—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

[F.No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 27 अक्टूबर, 2006

का. आ. 4559.—केन्द्रीय सरकार, बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) की अधिसूचना में, जो भारत के राजपत्र, भाग-II, खंड 3, उप-खंड (ii), तारीख 3 फरवरी 2006 को सं 658 द्वारा प्रकाशित हुई थी, निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में -

(i) विद्यमान पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :-

“अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ए एंड डी कंपनी लिमिटेड, 3-23-14, हिगाशीइकेबुकुरो तोषिमा, क्यू, टोक्यो-170-0013 जापान द्वारा निर्मित और मैसर्स एवन वेइंग सिस्टम लिमिटेड, 15 “बी” विंग, कमल कुंज, मेधा एच एस जी सो. एस वी रोड, अंधेरी (पश्चिम) मुंबई-400058 द्वारा बिना परिवर्तित किए विपणित और भारत में बिक्रीत विक्रय से पूर्व या पश्चात् उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले “जी एक्स-के” शृंखला के अंकक सूचन, सहित स्वतः सूचक, अस्वचालित इलैक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “ए एण्ड डी कंपनी लिमिटेड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/577 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है” ;

(ii) विद्यमान पैरा 3 में “द्रव क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वो. 50 हर्ट्ज, प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” के स्थान पर निम्नलिखित शब्द रखे जाएंगे, अर्थात् :-

“वैक्यूम फ्लोरोसेंट प्रदर्श (वी एफ डी) तोलन परिणाम उपदर्शित करता है। उपकरण प्रत्यावर्ती धारा एडाप्टर से जुड़कर 230 वो., 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है” ।

[फा. सं. डब्ल्यू एम-21(68)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th October, 2006

S.O. 4559.—In exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the Standards of Weights and Measures Act 1976 (60 of 1976), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) vide No. 658 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 3rd February, 2006, namely:—

In the said notification,—

(i) for the existing paragraph 2, the following paragraph shall be substituted, namely:—

“Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Tabletop Type) with digital indication of “GX-K” series of high accuracy (Accuracy class-II) and brand name “AND Company Limited” (hereinafter referred to as the said model), manufactured by M/s. A & D Company Limited, 3-23-14, Higashi-Ikebukuro, Toshima-ku, Tokyo 170-0013, Japan and marketed and sold without any alteration before or after sale in India by M/s. Avon Weighing Systems Limited, 15, ‘B’ Wing, Kamal Kunj, Megha HSG Soc., S. V. Road, Andheri (W), Mumbai - 400 058 and which is assigned the approval mark IND/09/05/577”;

(ii) in the existing paragraph 3, for the words “The display unit is of Liquid Crystal Diode (LCD) type. The instrument operates on 230-V, 50 Hz alternative power supply”, the following words shall substituted, namely:—

“The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on AC adapter connected to 230 V, 50 Hz alternate current power supply”.

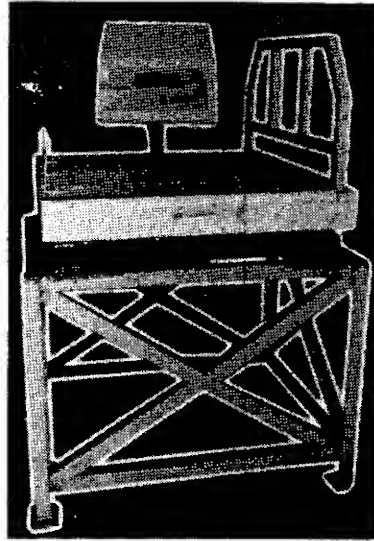
[F. No. WM-21(68)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 30 अक्टूबर, 2006

का. आ. 4560.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एपेक्स इलैक्ट्रॉनिक्स, हा. नं. 1-9-3, कुशाइगुडा मेन रोड, ई सी आई एल पोस्ट, हैदराबाद-500 062 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “डी डब्ल्यू-20” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “एपेक्स” है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/497 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 600 कि.ग्रा. और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक “ई” मान के लिए 100 से 50000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

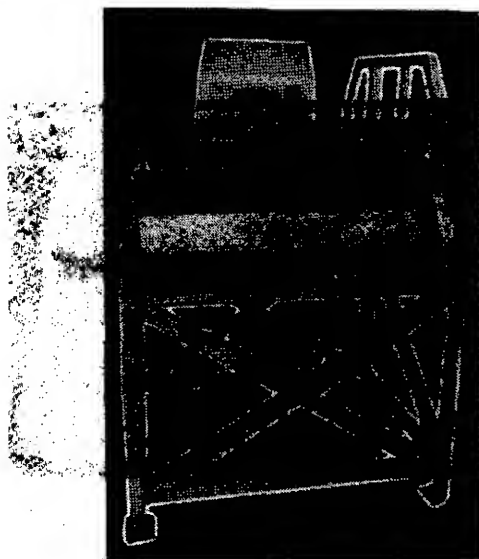
[फा. सं. डब्ल्यू एम-21(190)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th October, 2006

S.O. 4560.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "DW-20" series of high accuracy (Accuracy class-II) and with brand name "APEX" (herein referred to as the said model), manufactured by M/s. Apex Electronics, H. No. 1-9-3, Kusaiguda Main Road, ECIL Post, Hyderabad-500 062 and which is assigned the approval mark IND/09/06/497;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600 kg. and minimum capacity of 2.5 kg. The verification scale interval (e) is 50 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity range above 50 kg. and up to 5000 kg. and with number of verification scale interval (n) in the range of 100 to 50000 for 'e' value of 1mg. to 50 mg. and with verification scale interval (n) in the range of 5000 to 50000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^4 , 2×10^4 or 5×10^4 , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

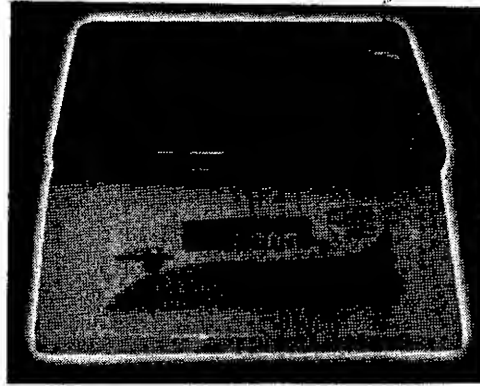
[F. No. WM-21(190)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 30 अक्टूबर, 2006

का. आ. 4561.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एपेक्स इलेक्ट्रॉनिक्स, हा. नं. 1-9-3, कुशाइगुडा मेन रोड, ई सी आई एल पोस्ट, हैदराबाद-500 062 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'डी डब्ल्यू-11' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टोप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एपेक्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/496 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबल टोप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्ध भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10 के, 2×10 के या 5×10 के, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

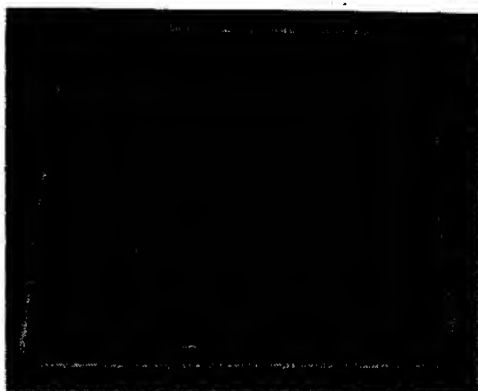
[फा. सं. डब्ल्यू एम-21(190)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th October, 2006

S.O. 4561.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Table top type) weighing instrument with digital indication of "DW-11" series of medium accuracy (Accuracy class-III) and with brand name "APEX" (herein referred to as the said model), manufactured by M/s. Apex Electronics, H. No. 1-9-3, Kusaiguda Main Road, ECIL Post, Hyderabad-500 062 and which is assigned the approval mark IND/09/06/496;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 10000 for 'e' value of 100mg. to 2 g. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^4 , 2×10^4 or 5×10^4 , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(190)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 30 अक्टूबर, 2006

का. आ. 4562.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एपेक्स इलेक्ट्रॉनिक्स, हा. नं. 1-9-3, कुशाइगुडा मेन रोड, ई सी आई एल पोस्ट हैदराबाद-500 062 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले 'डी डब्ल्यू-10' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एपेक्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/495 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति रोज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 100 से 50000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

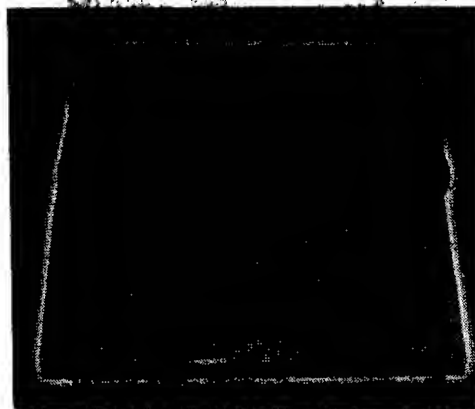
[फा. सं. डब्ल्यू एम-21(190)/2006]

* आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th October, 2006

S.O. 4562.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Tabletop type) with digital indication of "DW-10" series of high accuracy (Accuracy class-II) and with brand name "APEX" (hereinafter referred to as the said model), manufactured by M/s. Apex Electronics, H. No. 1-9-3, Kushaiguda Main Road, ECIL Post, Hyderabad-500 062 and which is assigned the approval mark IND/09/2006/495;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, and performance of same series with maximum capacity up to 50 kg. and with number of verification scale interval (n) in the range of 100 to 50000 for 'e' value of 1 mg. to 50mg. and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^3 , 2×10^3 or 5×10^3 , where k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

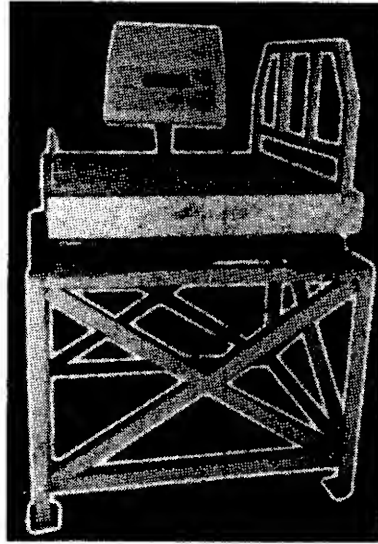
[F. No. WM-21(190)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 30 अक्टूबर, 2006

का. आ. 4563.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एपेक्स इलेक्ट्रॉनिक्स, हा. नं. 1-9-3, कुशाग्रगुडा मेन रोड, ई सी आई एल पोस्ट हैदराबाद-500 062 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'डी डब्ल्यू-21' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एपेक्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/498 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्ध भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

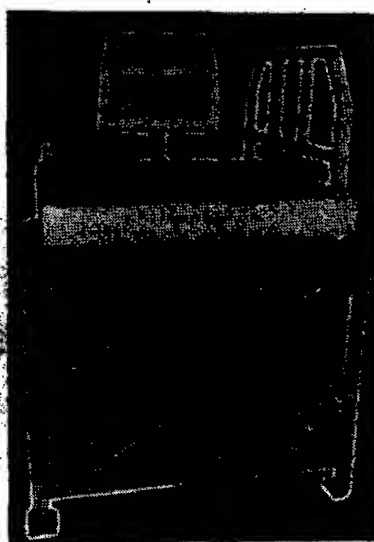
[फा. सं. डब्ल्यू एम-21(190)/2006]

आर. माथुरबूधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th October, 2006

S.O. 4563.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of self indicating non-automatic (Platform type) weighing instrument with digital indication of "DW-21" series of medium accuracy (Accuracy class-III) and with brand name "APEX" (herein referred to as the said model), manufactured by M/s. Apex Electronics, H. No. 1-9-3, Kusaiguda Main Road, ECIL Post, Hyderabad-500 062 and which is assigned the approval mark IND/09/2006/498;



The said model is a strain gauge type load cell based non-automatic weighing instrument with a maximum capacity of 1000kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of same series with maximum capacity above 50 kg. and up to 5000kg. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k being the positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design, and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(190)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 10 नवम्बर, 2006

का. आ. 4564.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रोटेक इंस्ट्रुमेंट्स कारपोरेशन, बी-406, गौरै गोल्डन सेंड्स को-ओप हा. सो., प्लॉट नं. 44 आर एस सी-48, गौरै 11, बोरिवली (प), मुम्बई-400 091 द्वारा विनिर्मित स्पेशल यथार्थता (यथार्थता वर्ग-1) वाले 'एम आई सी' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "माइक्रोन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/505 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक इलैक्ट्रोमैग्नेटिक फोर्स कम्पनसेशन प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) है। इसकी अधिकतम क्षमता 220 ग्रा. और न्यूनतम क्षमता 100 मि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 1 मि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। लिक्विड क्रिस्टल डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 50,000 या उससे अधिक के सत्यापन (एन) मापमान अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(199)/2005]

आर. माथुरबूधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th November, 2006

S.O. 4564.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Table top type) weighing instrument with digital indication of "MIC" series of special accuracy (Accuracy class-I) and with brand name "MICRON" (hereinafter referred to as the said model), manufactured by M/s. Microtech Instruments Corporation, B/406, Gorari Golden Sands Co-op Hsg. Soc., Plot No. 44, RSC-48, Gorai-II, Boriwali (W), Mumbai-400 091 and which is assigned the approval mark IND/09/2006/505;



The said model is an Electro Magnetic Force Compensation type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 220g. and minimum capacity of 100mg. The verification scale interval (e) is 1mg. It has a tare device with 100 per cent subtractive retained tare effect. The liquid crystal diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. and with number of verification scale interval (n) equal to or more than 50,000 for 'e' value of 1mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k being positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

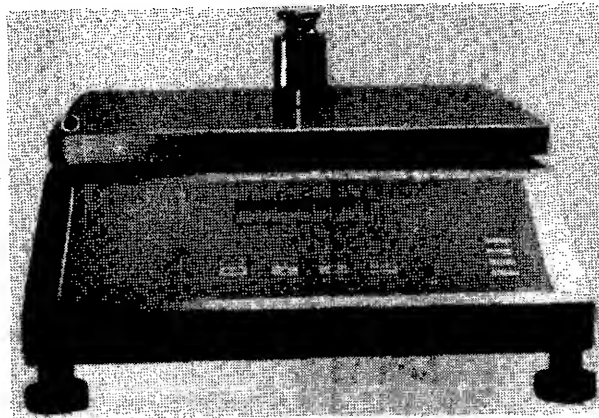
[F. No. WM-21(199)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 10 नवम्बर, 2006

क्र. आ. 4565.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रोटेक इंस्ट्रुमेंट्स कारपोरेशन, बी-406, गौरै गोल्डन सेंड्स को-ओप हा. सो., प्लोट नं. 44, आर एस सी-48, गौरै 11, बोरिवाली (प), मुम्बई-400 091 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “एम आई सी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “माइक्रोन” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/506 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार का) है। इसकी अधिकतम क्षमता 15 कि. ग्रा. और न्यूनतम क्षमता 50 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक “ई” मान के लिए 100 से 50000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

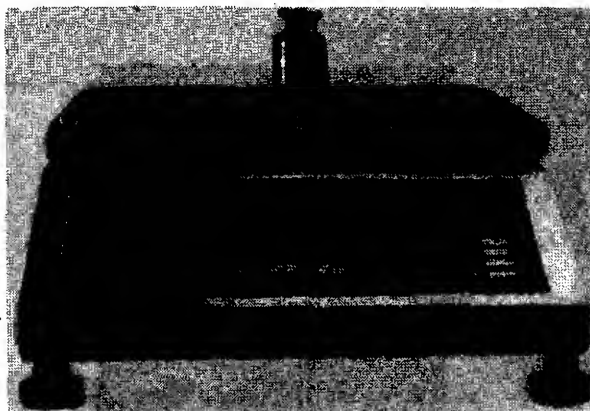
[फा. सं. डब्ल्यू एम-21(199)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th November, 2006

S.O. 4565.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "MIC" series of High accuracy (Accuracy class-11) and with brand name "MICRON" (herein referred to as the said model), manufactured by M/s. Microtech Instruments Corporation, B/406, Gorai Golden Sands Co-op Hsg. Soc., Plot No. 44, RSC-48, Gorai-II, Boriwali (W), Mumbai-400 091 and which is assigned the approval mark IND/09/2006/506;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 15kg. and minimum capacity of 50g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, and performance of same series with maximum capacity upto 50 kg. and with number of verification scale interval (n) in the range of 100 to 50000 for 'e' value of 1mg. to 50 mg. and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(199)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 10 नवम्बर, 2006

का. आ. 4566.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रोटेक इस्ट्रुमेंट्स कारपोरेशन, बी-406, गोरै गोल्डन सेंड्स को-ओप हा. सो., प्लोट नं. 44 आर एस सी-48, गोरै 11, बोरिवली (प), मुम्बई-400 091 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले 'एम आई सी' शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "माइक्रोन" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/507 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 600 कि. ग्रा. और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5,000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

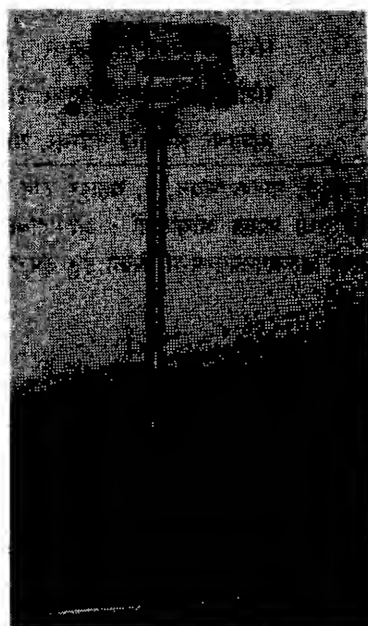
[फा. सं. डब्ल्यू एम-21(199)/2005]

आर. माधुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th November, 2006

S.O. 4566.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "MIC" series of high accuracy (Accuracy class-II) and with brand name "MICRON" (herein referred to as the said model), manufactured by M/s. Microtech Instruments Corporation, B/406, Gorai Golden Sands Co-op Hsg. Soc., Plot No. 44, RSC-48, Gorai-II, Boriwali (W), Mumbai-400 091 and which is assigned the approval mark IND/09/2006/507;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600kg. and minimum capacity of 2.5kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, and performance of same series with maximum capacity range above 50kg. and up to 5000 kg. and with number of verification scale interval (n) in the range of 100 to 50000 for 'e' value of 1mg. to 50 mg. and with of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(199)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

भारतीय मानक ब्यूरो

नई दिल्ली, 20 नवम्बर, 2006

का.आ. 4567.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

| क्रम संख्या | संशोधित भारतीय मानक की संख्या और वर्ष | संशोधन की संख्या और तिथि | संशोधन लागू होने की तिथि |
|-------------|---------------------------------------|-------------------------------|--------------------------|
| (1) | (2) | (3) | (4) |
| 1. | आई एस 7085:1986 | संशोधन संख्या 1 अक्टूबर, 2006 | अक्टूबर, 2006 |
| 2. | आई एस 9517:1980 | संशोधन संख्या 5 नवम्बर, 2006 | नवम्बर, 2006 |
| 3. | आई एस 1084: 2005 | संशोधन संख्या 1 नवम्बर, 2006 | नवम्बर, 2006 |
| 4. | आई एस 11815:1986 | संशोधन संख्या 2 अक्टूबर, 2006 | अक्टूबर, 2006 |
| 5. | आई एस 12171:1999 | संशोधन संख्या 1 अक्टूबर, 2006 | अक्टूबर, 2006 |
| 6. | आई एस 2673:1991 | संशोधन संख्या 2 नवम्बर, 2006 | नवम्बर, 2006 |

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी एक्स डी/जी25]

एम. एस. वर्मा, निदेशक एवं प्रमुख (टीएक्सडी)

BUREAU OF INDIAN STANDARDS

New Delhi, the 20th November, 2006

S.O. 4567.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

| Sl. No. | No. and year of the Indian Standards | No. and year of the amendments | Date from which the amendment shall have effect |
|---------|--------------------------------------|--------------------------------|---|
| (1) | (2) | (3) | (4) |
| 1. | IS 7085:1986 | Amendment No. 2 October, 2006 | October, 2006 |
| 2. | IS 9517:1986 | Amendment No. 5 November, 2006 | November, 2006 |
| 3. | IS 1084:2005 | Amendment No. 1 November, 2006 | November, 2006 |
| 4. | IS 11815:1986 | Amendment No. 2 October, 2006 | October, 2006 |
| 5. | IS 12171:1999 | Amendment No. 1 October, 2006 | October, 2006 |
| 6. | IS 2673:1991 | Amendment No. 2 November, 2006 | November, 2006 |

Copy of Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TXD/G-25]

M. S. VERMA, Director & Head (Textiles)

नई दिल्ली, 21 नवम्बर, 2006

का.आ. 4568.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

| क्रम संख्या | संशोधित भारतीय मानक की संख्या और वर्ष | संशोधन की संख्या और तिथि | संशोधन लागू होने की तिथि |
|-------------|---------------------------------------|--------------------------|--------------------------|
| (1) | (2) | (3) | (4) |
| 1. | आई एस 13983:1994 | 2 नवम्बर 2006 | 14 नवम्बर 2006 |

इस संशोधन की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 21st November, 2006

S.O. 4568.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

| Sl. No. | No. and year of the Indian Standards | No. and year of the amendment | Date from which the amendment shall have effect |
|---------|--------------------------------------|-------------------------------|---|
| (1) | (2) | (3) | (4) |
| 1. | IS 13983:1994 | 2 November, 2006 | 14 November, 2006 |

Copy of the Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Punc, Thiruvananthapuram.

[Ref. CED/Gazette]

A.K. SAINI, Sc. 'F' & Head (Civil Engg.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4569.—केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 748 तारीख 23-2-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी. के. जी. बेसिन, राजामुद्रि एसट द्वारा आन्ध्र प्रदेश राज्य में इ.पि.ऐ.ऐ. से ताटिपाका जि.सि.एस. परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 22-7-2005 से उपलब्ध करा दी गई थीं;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुजात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देते हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरोहित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामुद्रि एसट में निहित होगा।

अनुसूची

आर.ओ.यू. पाइपलाइन : इ.पि.ऐ.ऐ. से ताटिपाका जि.सि.एस.

राज्य : आन्ध्र प्रदेश मंडल : मामिडिकुदुरु

जिला : पूर्व गोदावारी गांव : अप्पानापल्लि

आर. एस. नं. हेक्टेर्स एर्स सेन्टेर्स एकड़ सेन्टेर्स

| 1 | 2 | 3 | 4 | 5 | 6 |
|-------------|---|----|---|---|----|
| 238/3सी | 0 | 19 | 5 | 0 | 48 |
| 239/8 | 0 | 03 | 0 | 0 | 07 |
| 239/9 | 0 | 14 | 0 | 0 | 35 |
| 240/1(जीपी) | 0 | 00 | 5 | 0 | 01 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------------|---|----|---|---|----|
| 244/2(जीपी) | 0 | 04 | 0 | 0 | 10 |
| 243/1(जीपी) | 0 | 03 | 5 | 0 | 09 |
| 131/3सी | 0 | 02 | 5 | 0 | 06 |
| 131/2बी | 0 | 01 | 0 | 0 | 03 |
| 188/2 | 0 | 02 | 5 | 0 | 06 |
| 239/5 | 0 | 01 | 0 | 0 | 02 |
| 245/4 | 0 | 01 | 5 | 0 | 04 |
| 245/5 | 0 | 02 | 0 | 0 | 05 |
| 245/7बी | 0 | 05 | 5 | 0 | 13 |
| 245/7सी | 0 | 08 | 5 | 0 | 21 |
| 245/6 | 0 | 34 | 0 | 0 | 84 |
| 245/8ऐ | 0 | 12 | 0 | 0 | 30 |
| 245/8बी | 0 | 01 | 0 | 0 | 02 |
| 246/2बी | 0 | 33 | 5 | 0 | 83 |
| 245/5 | 0 | 02 | 0 | 0 | 05 |
| 246/1पी | 0 | 32 | 5 | 0 | 80 |
| 246/2ऐ | 0 | 02 | 0 | 0 | 05 |
| 220/2 | 0 | 09 | 5 | 0 | 24 |
| 220/3 | 0 | 08 | 0 | 0 | 20 |
| 204/1,2,3,4,6, | 0 | 24 | 5 | 0 | 61 |
| 205/4 | 0 | 02 | 5 | 0 | 06 |
| 205/5 | 0 | 02 | 5 | 0 | 06 |
| 205/6 | 0 | 06 | 5 | 0 | 16 |
| 201/13बी | 0 | 14 | 0 | 0 | 34 |
| 205/7 | 0 | 11 | 5 | 0 | 29 |
| 201/13सी | 0 | 09 | 5 | 0 | 24 |
| 197/1 | 0 | 07 | 5 | 0 | 18 |
| 198/6बी | 0 | 17 | 5 | 0 | 43 |
| 198/6सी | 0 | 05 | 0 | 0 | 12 |
| 198/6डी | 0 | 03 | 0 | 0 | 07 |
| 188/3बी | 0 | 08 | 0 | 0 | 20 |
| 188/3सी | 0 | 08 | 0 | 0 | 20 |
| 188/4बी | 0 | 05 | 0 | 0 | 12 |
| 188/4सी | 0 | 12 | 0 | 0 | 30 |
| 202/1,3,7,8,10, | 0 | 98 | 0 | 2 | 42 |
| 188/5 | 0 | 16 | 0 | 0 | 40 |
| 187/3 | 0 | 15 | 0 | 0 | 37 |
| 147/2(जीपी) | 0 | 01 | 0 | 0 | 03 |
| 146/1ऐ | 0 | 0 | 5 | 0 | 01 |
| 146/1बी | 0 | 24 | 5 | 0 | 60 |
| 146/3 | 0 | 04 | 0 | 0 | 10 |
| 146/2 | 0 | 06 | 0 | 0 | 15 |
| 149/6पी | 0 | 13 | 0 | 0 | 32 |
| 150/2(जीपी) | 0 | 05 | 5 | 0 | 13 |
| 135/1 | 0 | 01 | 0 | 0 | 03 |
| 136/2 | 0 | 17 | 5 | 0 | 43 |
| 136/4ऐ | 0 | 05 | 5 | 0 | 14 |
| 136/3बी | 0 | 02 | 5 | 0 | 06 |
| 136/सी | 0 | 07 | 5 | 0 | 18 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-------------|---|----|---|----|----|
| 136/डी | 0 | 05 | 0 | 0 | 12 |
| 136/4ए2 | 0 | 05 | 5 | 0 | 14 |
| 133/1. | 0 | 09 | 5 | 0 | 23 |
| 129/3 | 0 | 01 | 5 | 0 | 04 |
| 130/2(जीपी) | 0 | 02 | 5 | 0 | 06 |
| 131/1पी | 0 | 07 | 5 | 0 | 18 |
| 131/2ए | 0 | 00 | 5 | 0 | 01 |
| 131/2बी | 0 | 01 | 0 | 0 | 03 |
| 131/3सी | 0 | 02 | 0 | 0 | 05 |
| 131/3बी | 0 | 10 | 5 | 0 | 26 |
| 131/3ए | 0 | 08 | 0 | 0 | 20 |
| 131/2सी | 0 | 02 | 0 | 0 | 05 |
| 131/3डी | 0 | 01 | 5 | 0 | 04 |
| 131/2डी | 0 | 02 | 5 | 0 | 06 |
| 131/3ई | 0 | 01 | 0 | 0 | 02 |
| 131/2ई | 0 | 03 | 0 | 0 | 08 |
| जोड़ | 6 | 21 | 0 | 15 | 35 |

अनुसूची

आर.ओ.यू. पाइपलाइन : इ.पि.ऐ.ऐ. से ताटियाका जी.सि.एस.

राज्य : आन्ध्र प्रदेश मंडल : मामिडिकुदुरु
जिला : पूर्व गोदावरी गांव : पेदापटनमलंका

| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
|------------|-----------|------|-----------|------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 21/4बी | 0 | 06 | 0 | 0 | 15 |
| 21/4सी | 0 | 02 | 0 | 0 | 05 |
| 21/5पी | 0 | 07 | 0 | 0 | 17 |
| 53/9सी | 0 | 08 | 0 | 0 | 20 |
| 54/1सीपी | 0 | 05 | 5 | 0 | 14 |
| 54/3सीपी | 0 | 06 | 5 | 0 | 16 |
| 19/2 | 0 | 07 | 5 | 0 | 18 |
| 19/3बी2 | 0 | 01 | 5 | 0 | 04 |
| 19/3बी3 | 0 | 02 | 5 | 0 | 06 |
| 19/3बी4 | 0 | 03 | 0 | 0 | 07 |
| 18/2(जीपी) | 0 | 01 | 0 | 0 | 03 |
| 76/1 | 0 | 05 | 5 | 0 | 14 |
| 76/4 | 0 | 17 | 0 | 0 | 42 |
| 80/1ए | 0 | 11 | 5 | 0 | 29 |
| 80/1सी | 0 | 04 | 5 | 0 | 11 |
| 80/2ए | 0 | 03 | 5 | 0 | 09 |
| 80/3बी | 0 | 24 | 5 | 0 | 60 |
| 81/2(जीपी) | 0 | 01 | 0 | 0 | 02 |
| 81/1(जीपी) | 0 | 01 | 0 | 0 | 02 |
| 84/2 | 0 | 28 | 0 | 0 | 69 |
| 83/6 | 0 | 26 | 5 | 0 | 66 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------|---|----|---|----|----|
| 153/3 | 0 | 20 | 0 | 0 | 50 |
| 152/4बी | 0 | 01 | 5 | 0 | 04 |
| 152/4सी | 0 | 25 | 5 | 0 | 63 |
| 151/7बी | 0 | 10 | 0 | 0 | 25 |
| 151/7सी | 0 | 04 | 5 | 0 | 11 |
| 151/11. | 0 | 00 | 5 | 0 | 01 |
| 134/6पी | 0 | 02 | 5 | 0 | 06 |
| 142/4बी | 0 | 13 | 0 | 0 | 32 |
| 142/4सी | 0 | 13 | 0 | 0 | 32 |
| 142/5बीपी | 0 | 19 | 5 | 0 | 48 |
| 136/5बी | 0 | 03 | 0 | 0 | 08 |
| 136/4 | 0 | 11 | 5 | 0 | 28 |
| 136/5सी | 0 | 34 | 5 | 0 | 85 |
| 136/1पी | 0 | 32 | 5 | 0 | 80 |
| 134/5ए | 0 | 01 | 0 | 0 | 02 |
| 136/3पी | 0 | 07 | 5 | 0 | 18 |
| 135/7 | 0 | 22 | 5 | 0 | 55 |
| 135/6 | 0 | 05 | 0 | 0 | 12 |
| 135/5 | 0 | 35 | 0 | 0 | 87 |
| 134/5बी | 0 | 02 | 5 | 0 | 06 |
| 134/5सी | 0 | 03 | 0 | 0 | 08 |
| 134/4 | 0 | 12 | 0 | 0 | 30 |
| जोड़ | 4 | 53 | 5 | 11 | 20 |

| | | | | | |
|-------------|---------------|--------|--------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | मामिडिकुदुरु | | |
| जिला : | पूर्व गोदावरी | गांव : | पासरलापूडि | | |
| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 203/2 | 0 | 03 | 5 | 0 | 09 |
| 202/1 | 0 | 10 | 0 | 0 | 25 |
| 4/2. | 0 | 12 | 0 | 0 | 30 |
| 4/3सी | 0 | 05 | 0 | 0 | 12 |
| 4/3डी | 0 | 08 | 0 | 0 | 20 |
| 5/3. | 0 | 04 | 0 | 0 | 10 |
| 4/3बी | 0 | 00 | 5 | 0 | 01 |
| 5/2. | 0 | 11 | 5 | 0 | 28 |
| 10/1ऐ,1बी | 0 | 31 | 0 | 0 | 77 |
| 15/5 | 0 | 07 | 0 | 0 | 17 |
| 10/2 | 0 | 00 | 5 | 0 | 01 |
| 15/4बी | 0 | 08 | 5 | 0 | 21 |
| 14/6बी | 0 | 05 | 5 | 0 | 13 |
| 14/4,5,6, | 0 | 14 | 0 | 0 | 34 |
| 17/1बी(ओआर) | 0 | 06 | 0 | 0 | 14 |
| 17/1सी(ओआर) | 0 | 05 | 0 | 0 | 12 |
| 17/1डी(ओआर) | 0 | 06 | 5 | 0 | 16 |
| 17/1ई(ओआर) | 0 | 03 | 5 | 0 | 09 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------------|---|----|---|---|----|
| 17/1ई(ओआर) | 0 | 03 | 5 | 0 | 09 |
| 17/1जी(ओआर) | 0 | 03 | 5 | 0 | 09 |
| 16/1बी,2बी(ओआर) | 0 | 26 | 5 | 0 | 65 |
| जोड़ | 1 | 75 | 0 | 4 | 32 |

राज्य : आन्ध्र प्रदेश मंडल : मामिडिकुदुरु
जिला : पूर्व गोदावरी गांव : मामिडिकुदुरु

| आर. एस. नं | हेक्टेएस | एस | सेन्टेएस | एकड़ | सेन्ड्स |
|---------------|----------|----|----------|------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 50/5ऐपी(ओआर) | 0 | 10 | 0 | 0 | 25 |
| 50/3बी(ओआर) | 0 | 10 | 0 | 0 | 25 |
| 50/3ऐ(ओआर) | 0 | 06 | 5 | 0 | 16 |
| 49/1,2ऐ(ओआर) | 0 | 14 | 0 | 0 | 35 |
| 50/1(ओआर) | 0 | 02 | 0 | 0 | 05 |
| 50/2(ओआर) | 0 | 03 | 0 | 0 | 08 |
| 48/2(ओआर) | 0 | 05 | 5 | 3 | 13 |
| 48/3(ओआर) | 0 | 05 | 5 | 0 | 13 |
| 55/पी(ओआर) | 0 | 08 | 5 | 0 | 21 |
| 36/6ऐ(ओआर) | 0 | 05 | 0 | 0 | 12 |
| 56/4(ओआर) | 0 | 18 | 0 | 0 | 44 |
| 56/1(ओआर) | 0 | 01 | 0 | 0 | 03 |
| 56/3(ओआर) | 0 | 08 | 0 | 0 | 07 |
| 56/5ऐ(ओआर) | 0 | 06 | 0 | 0 | 15 |
| 39/5(ओआर) | 0 | 07 | 0 | 0 | 17 |
| 39/7बी(ओआर) | 0 | 05 | 5 | 0 | 14 |
| 36/2(ओआर) | 0 | 11 | 0 | 0 | 27 |
| 36/4(ओआर) | 0 | 10 | 0 | 0 | 25 |
| 36/5(ओआर) | 0 | 05 | 0 | 0 | 12 |
| 33/पी(ओआर) | 0 | 20 | 0 | 0 | 50 |
| 18/1(ओआर) | 0 | 06 | 0 | 0 | 15 |
| 18/3(ओआर) | 0 | 05 | 0 | 0 | 15 |
| 18/2(ओआर) | 0 | 03 | 5 | 0 | 09 |
| 16/4ऐ(ओआर) | 0 | 02 | 5 | 0 | 06 |
| 39/1 सी(ओआर) | 0 | 09 | 0 | 0 | 22 |
| 39/3(ओआर) | 0 | 06 | 0 | 0 | 15 |
| 39/8ऐ(ओआर) | 0 | 05 | 0 | 0 | 14 |
| 16/4बी(ओआर) | 0 | 03 | 0 | 0 | 07 |
| 16/4सी(ओआर) | 0 | 05 | 5 | 0 | 13 |
| 16/5ऐ(ओआर) | 0 | 03 | 5 | 0 | 09 |
| 16/5बी(ओआर) | 0 | 05 | 0 | 0 | 14 |
| 16/2बी,3(ओआर) | 0 | 08 | 0 | 0 | 20 |
| 14/2बी(ओआर) | 0 | 06 | 5 | 0 | 16 |
| 14/2सी(ओआर) | 0 | 08 | 0 | 0 | 20 |
| 5/1ऐ(ओआर) | 0 | 07 | 5 | 0 | 18 |
| 5/1बी(ओआर) | 0 | 22 | 5 | 0 | 56 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|------------|---|----|---|---|----|
| 5/बी2(ओआर) | 0 | 12 | 0 | 0 | 30 |
| 5/बी3(ओआर) | 0 | 04 | 5 | 0 | 11 |
| 6/1बी(ओआर) | 0 | 7 | 5 | 0 | 18 |
| 6/1सी(ओआर) | 0 | 06 | 0 | 0 | 15 |
| 7/ऐ(ओआर) | 0 | 48 | 5 | 1 | 20 |
| 7/1ई1(ओआर) | 0 | 01 | 0 | 0 | 03 |
| जोड़ | 3 | 43 | 0 | 8 | 53 |

| राज्य : | आन्ध्र प्रदेश | मंडल : | मामिडिकुदुरु | | |
|---------------|---------------|--------|--------------|------|---------|
| जिला : | पूर्व गोदावरी | गांव : | नागाराम | | |
| आर. एस. नं | हेक्टेएस | एस | सेन्टेएस | एकड़ | सेन्ड्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 232/15A1 (OR) | 0 | 10 | 0 | 0 | 25 |
| 224/1A2 (OR) | 0 | 04 | 0 | 0 | 10 |
| 232/15A2 (OR) | 0 | 04 | 0 | 0 | 10 |
| 233/p (OR) | 0 | 16 | 5 | 0 | 41 |
| 236/1B6 (OR) | 0 | 14 | 0 | 0 | 34 |
| 236/B5 (OR) | 0 | 03 | 5 | 0 | 09 |
| 236/B4 (OR) | 0 | 14 | 5 | 0 | 36 |
| 184/p, (OR) | 0 | 03 | 0 | 0 | 07 |
| 236/B3 (OR) | 0 | 08 | 5 | 0 | 21 |
| 240/p (OR) | 0 | 07 | 5 | 0 | 19 |
| 236/b2 (OR) | 0 | 07 | 0 | 0 | 17 |
| 236/1B1 (OR) | 0 | 18 | 5 | 0 | 46 |
| 239/पी(ओआर) | 0 | 01 | 5 | 0 | 04 |
| 181/1ऐ(ओआर) | 0 | 01 | 0 | 0 | 02 |
| 180/पी(ओआर) | 0 | 25 | 0 | 0 | 62 |
| 181/सी(ओआर) | 0 | 01 | 5 | 0 | 04 |
| 242/2पी(ओआर) | 0 | 10 | 0 | 0 | 25 |
| 175/पी(ओआर) | 0 | 07 | 5 | 0 | 19 |
| 240/बी(ओआर) | 0 | 16 | 0 | 0 | 39 |
| 145/5ऐ(ओआर) | 0 | 03 | 0 | 0 | 08 |
| 145/4सी(ओआर) | 0 | 09 | 5 | 0 | 24 |
| 145/5बी(ओआर) | 0 | 03 | 0 | 0 | 08 |
| 146/3(ओआर) | 0 | 01 | 0 | 0 | 02 |
| 146/4(ओआर) | 0 | 08 | 0 | 0 | 07 |
| 169/1ऐ3(ओआर) | 0 | 06 | 0 | 0 | 14 |
| 169/1ऐ4(ओआर) | 0 | 08 | 0 | 0 | 20 |
| 169/1ऐ5(ओआर) | 0 | 04 | 0 | 0 | 10 |
| 181/ऐ2(ओआर) | 0 | 09 | 5 | 0 | 23 |
| 181/2बी(ओआर) | 0 | 11 | 0 | 0 | 27 |
| जोड़ | 2 | 31 | 0 | 5 | 71 |

[फा. सं.-12016/49/2006-ओ. एन. जी/डी. ओ.-III]

ओ. पी. बनवारी, अवस्यसचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 22nd November, 2006

S.O. 4569.—whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 748 dated 23-2-2005 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipe Lines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipeline EPAA to TATIPAKA GCS in the State of Andhra Pradesh, a pipeline should be laid by the ONGC—RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 22-07-2005.

And whereas no objections have been received from the public to the laying of the pipeline by the Competent Authority;

And whereas the Competent Authority has, under Sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, therefore, in exercise of the powers conferred by Sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G. Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE**ROU PIPELINE FROM EPAA to TATIPAKA GCS**

State : Andhra Pradesh Mandal : Mamidikuduru

District : East Godavari Village : Appanapalli

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|-----------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 238/3C | 0 | 19 | 5 | 0 | 48 |
| 239/8 | 0 | 03 | 0 | 0 | 07 |
| 239/9 | 0 | 14 | 0 | 0 | 35 |
| 240/1(GP) | 0 | 00 | 5 | 0 | 01 |
| 244/2(GP) | 0 | 04 | 0 | 0 | 10 |
| 243/1(GP) | 0 | 03 | 5 | 0 | 09 |
| 131/3C | 0 | 02 | 5 | 0 | 06 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------------|---|----|---|---|----|
| 131/2B | 0 | 01 | 0 | 0 | 03 |
| 188/2 | 0 | 02 | 5 | 0 | 06 |
| 239/5 | 0 | 01 | 0 | 0 | 02 |
| 245/4 | 0 | 01 | 5 | 0 | 04 |
| 245/5 | 0 | 02 | 0 | 0 | 05 |
| 245/7B | 0 | 06 | 5 | 0 | 13 |
| 245/7C | 0 | 08 | 5 | 0 | 21 |
| 245/6 | 0 | 34 | 0 | 0 | 84 |
| 245/8A | 0 | 12 | 0 | 0 | 30 |
| 245/8B | 0 | 01 | 0 | 0 | 02 |
| 246/2B | 0 | 33 | 5 | 0 | 83 |
| 245/5 | 0 | 02 | 0 | 0 | 05 |
| 246/1P | 0 | 32 | 5 | 0 | 80 |
| 246/2A | 0 | 02 | 0 | 0 | 05 |
| 220/2 | 0 | 09 | 5 | 0 | 24 |
| 220/3 | 0 | 08 | 0 | 0 | 20 |
| 204/1,2,3,4,6 | 0 | 24 | 5 | 0 | 61 |
| 205/4 | 0 | 02 | 5 | 0 | 06 |
| 205/5 | 0 | 02 | 5 | 0 | 06 |
| 205/6 | 0 | 06 | 5 | 0 | 16 |
| 201/13B | 0 | 14 | 0 | 0 | 34 |
| 205/7 | 0 | 11 | 5 | 0 | 29 |
| 201/13C | 0 | 09 | 5 | 0 | 24 |
| 197/1 | 0 | 07 | 5 | 0 | 18 |
| 198/6B | 0 | 17 | 5 | 0 | 43 |
| 198/6C | 0 | 05 | 0 | 0 | 12 |
| 198/6D | 0 | 03 | 0 | 0 | 07 |
| 188/3B | 0 | 08 | 0 | 0 | 20 |
| 188/3C | 0 | 08 | 0 | 0 | 20 |
| 188/4B | 0 | 05 | 0 | 0 | 12 |
| 188/4C | 0 | 12 | 0 | 0 | 30 |
| 202/1,3,7,8,10, | 0 | 98 | 0 | 2 | 42 |
| 188/5 | 0 | 16 | 0 | 0 | 40 |
| 187/3 | 0 | 15 | 0 | 0 | 37 |
| 147/2(GP) | 0 | 01 | 0 | 0 | 03 |
| 146/1A | 0 | 0 | 5 | 0 | 01 |
| 146/1B | 0 | 24 | 5 | 0 | 60 |
| 146/3 | 0 | 04 | 0 | 0 | 10 |
| 146/2 | 0 | 06 | 0 | 0 | 15 |
| 149/6P | 0 | 13 | 0 | 0 | 32 |
| 150/2(GP) | 0 | 05 | 5 | 0 | 13 |
| 135/1 | 0 | 01 | 0 | 0 | 03 |
| 136/2 | 0 | 17 | 5 | 0 | 43 |
| 136/4A3 | 0 | 05 | 5 | 0 | 14 |
| 136/3B | 0 | 02 | 5 | 0 | 06 |
| 136/C | 0 | 07 | 5 | 0 | 18 |
| 136/D | 0 | 05 | 0 | 0 | 12 |
| 136/4A2 | 0 | 05 | 5 | 0 | 14 |
| 133/1 | 0 | 09 | 5 | 0 | 23 |
| 129/3 | 0 | 01 | 5 | 0 | 04 |
| 130/2(GP) | 0 | 02 | 5 | 0 | 06 |
| 131/1P | 0 | 07 | 5 | 0 | 18 |
| 131/2A | 0 | 00 | 5 | 0 | 01 |
| 131/2B | 0 | 01 | 0 | 0 | 03 |
| 131/3C | 0 | 02 | 0 | 0 | 05 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|--------|---|----|---|----|----|
| 131/3B | 0 | 10 | 5 | 0 | 26 |
| 131/3A | 0 | 08 | 0 | 0 | 20 |
| 131/2C | 0 | 02 | 0 | 0 | 05 |
| 131/3D | 0 | 01 | 5 | 0 | 04 |
| 131/2D | 0 | 02 | 5 | 0 | 06 |
| 131/3E | 0 | 01 | 0 | 0 | 02 |
| 131/2E | 0 | 03 | 0 | 0 | 08 |
| TOTAL | 6 | 21 | 0 | 15 | 35 |

State : Andhra Pradesh Mandal : Mamidikuduru
District : East Godavari Village : Pedapatnam Lanka

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 21/4B | 0 | 06 | 0 | 0 | 15 |
| 21/4C | 0 | 02 | 0 | 0 | 06 |
| 21/5P | 0 | 07 | 0 | 0 | 17 |
| 53/9C | 0 | 08 | 0 | 0 | 20 |
| 54/1CP | 0 | 05 | 5 | 0 | 14 |
| 54/3CP | 0 | 06 | 5 | 0 | 16 |
| 19/2 | 0 | 07 | 5 | 0 | 18 |
| 19/3B2 | 0 | 01 | 5 | 0 | 04 |
| 19/3B3 | 0 | 02 | 5 | 0 | 06 |
| 19/3B4 | 0 | 03 | 0 | 0 | 07 |
| 18/2(GP) | 0 | 01 | 0 | 0 | 03 |
| 76/1 | 0 | 05 | 5 | 0 | 14 |
| 76/4 | 0 | 17 | 0 | 0 | 42 |
| 80/1A | 0 | 11 | 5 | 0 | 29 |
| 80/1C | 0 | 04 | 5 | 0 | 11 |
| 80/2A | 0 | 03 | 5 | 0 | 09 |
| 80/3B | 0 | 24 | 5 | 0 | 60 |
| 81/2(GP) | 0 | 01 | 0 | 0 | 02 |
| 82/1(GP) | 0 | 01 | 0 | 0 | 02 |
| 84/2 | 0 | 28 | 0 | 0 | 69 |
| 83/6 | 0 | 26 | 5 | 0 | 66 |
| 153/3 | 0 | 20 | 0 | 0 | 50 |
| 152/4B | 0 | 01 | 5 | 0 | 04 |
| 152/4C | 0 | 25 | 5 | 0 | 63 |
| 151/7B | 0 | 10 | 0 | 0 | 25 |
| 151/7C | 0 | 04 | 5 | 0 | 11 |
| 151/11, | 0 | 00 | 5 | 0 | 01 |
| 134/6P | 0 | 02 | 5 | 0 | 06 |
| 142/4B | 0 | 13 | 0 | 0 | 32 |
| 142/4C | 0 | 13 | 0 | 0 | 32 |
| 142/5Bp | 0 | 19 | 5 | 0 | 48 |
| 136/5B | 0 | 03 | 0 | 0 | 08 |
| 136/4 | 0 | 11 | 5 | 0 | 28 |
| 136/5C | 0 | 34 | 5 | 0 | 85 |
| 136/1p | 0 | 32 | 5 | 0 | 80 |
| 134/5A | 0 | 01 | 0 | 0 | 02 |
| 136/3P | 0 | 07 | 5 | 0 | 18 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|--------|---|----|---|----|----|
| 135/7 | 0 | 22 | 5 | 0 | 55 |
| 135/6 | 0 | 05 | 0 | 0 | 12 |
| 135/5 | 0 | 35 | 0 | 0 | 87 |
| 134/5B | 0 | 02 | 5 | 0 | 06 |
| 134/5C | 0 | 03 | 0 | 0 | 08 |
| 134/4 | 0 | 12 | 0 | 0 | 30 |
| TOTAL | 4 | 53 | 5 | 11 | 20 |

State : Andhra Pradesh Mandal : Mamidikuduru

District : East Godavari Village : Pasarlapudi

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 203/2 | 0 | 03 | 5 | 0 | 09 |
| 202/1 | 0 | 10 | 0 | 0 | 25 |
| 4/2. | 0 | 12 | 0 | 0 | 30 |
| 4/3C | 0 | 05 | 0 | 0 | 12 |
| 4/3D | 0 | 08 | 0 | 0 | 20 |
| 5/3. | 0 | 04 | 0 | 0 | 10 |
| 4/3B | 0 | 00 | 5 | 0 | 01 |
| 5/2. | 0 | 11 | 5 | 0 | 28 |
| 10/1A,1B | 0 | 31 | 0 | 0 | 77 |
| 15/5 | 0 | 07 | 0 | 0 | 17 |
| 10/2. | 0 | 00 | 5 | 0 | 01 |
| 15/4B | 0 | 08 | 5 | 0 | 21 |
| 14/6B | 0 | 05 | 5 | 0 | 13 |
| 14/4,5,6, | 0 | 14 | 0 | 0 | 34 |
| 17/1B (O.R.) | 0 | 06 | 0 | 0 | 14 |
| 17/1C(O.R.) | 0 | 06 | 0 | 0 | 12 |
| 17/1D(O.R.) | 0 | 06 | 5 | 0 | 16 |
| 17/1E(O.R.) | 0 | 03 | 5 | 0 | 09 |
| 17/1F(O.R.) | 0 | 03 | 5 | 0 | 09 |
| 17/1G(O.R.) | 0 | 03 | 5 | 0 | 09 |
| 16/1B,2B(O.R.) | 0 | 26 | 5 | 0 | 65 |
| TOTAL | 1 | 75 | 6 | 4 | 32 |

State : Andhra Pradesh Mandal : Mamidikuduru

District : East Godavari Village : Mamidikuduru

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|--------------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 50/5Ap (OR) | 0 | 10 | 0 | 0 | 25 |
| 50/3B (OR) | 0 | 10 | 0 | 0 | 25 |
| 50/3A (OR) | 0 | 06 | 5 | 0 | 16 |
| 49/1,2A (OR) | 0 | 14 | 0 | 0 | 35 |
| 50/1 (OR) | 0 | 02 | 0 | 0 | 05 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|--------------|----------|-----------|----------|----------|-----------|
| 50/2 (OR) | 0 | 08 | 0 | 0 | 08 |
| 48/2 (OR) | 0 | 05 | 5 | 3 | 13 |
| 48/3 (OR) | 0 | 05 | 5 | 0 | 13 |
| 55/p (OR) | 0 | 08 | 5 | 0 | 21 |
| 36/6A (OR) | 0 | 05 | 0 | 0 | 12 |
| 56/4 (OR) | 0 | 18 | 0 | 0 | 44 |
| 56/2 (OR) | 0 | 01 | 0 | 0 | 03 |
| 56/3 (OR) | 0 | 03 | 0 | 0 | 07 |
| 56/5A (OR) | 0 | 06 | 0 | 0 | 15 |
| 39/5 (OR) | 0 | 07 | 0 | 0 | 17 |
| 39/7B (OR) | 0 | 05 | 05 | 0 | 14 |
| 36/2 (OR) | 0 | 11 | 0 | 0 | 27 |
| 36/4 (OR) | 0 | 10 | 0 | 0 | 25 |
| 36/5 (OR) | 0 | 05 | 0 | 0 | 12 |
| 33/P (OR) | 0 | 20 | 0 | 0 | 50 |
| 18/1 (OR) | 0 | 06 | 0 | 0 | 15 |
| 18/3 (OR) | 0 | 06 | 0 | 0 | 15 |
| 18/2 (OR) | 0 | 03 | 5 | 0 | 09 |
| 16/4A (OR) | 0 | 02 | 5 | 0 | 06 |
| 39/1C (OR) | 0 | 09 | 0 | 0 | 22 |
| 39/3 (OR) | 0 | 06 | 0 | 0 | 15 |
| 39/8A (OR) | 0 | 05 | 0 | 0 | 14 |
| 16/4B (OR) | 0 | 03 | 0 | 0 | 07 |
| 16/4C (OR) | 0 | 05 | 5 | 0 | 13 |
| 16/5A (OR) | 0 | 03 | 5 | 0 | 09 |
| 16/5B (OR) | 0 | 05 | 0 | 0 | 14 |
| 16/2B,3 (OR) | 0 | 08 | 0 | 0 | 20 |
| 14/2B (OR) | 0 | 06 | 5 | 0 | 16 |
| 14/2C (OR) | 0 | 08 | 0 | 0 | 20 |
| 5/1A (OR) | 0 | 07 | 5 | 0 | 18 |
| 5/1B (OR) | 0 | 22 | 5 | 0 | 56 |
| 5/B2 (OR) | 0 | 12 | 0 | 0 | 30 |
| 5/B3 (OR) | 0 | 04 | 5 | 0 | 11 |
| 6/1B (OR) | 0 | 7 | 5 | 0 | 18 |
| 6/1C (OR) | 0 | 06 | 0 | 0 | 15 |
| 7/A (OR) | 0 | 48 | 5 | 1 | 20 |
| 7/1E1 (OR) | 0 | 01 | 0 | 0 | 03 |
| TOTAL | 3 | 43 | 0 | 8 | 53 |

State : Andhra Pradesh Mandal: Mamidikuduru

District : East Godavari Village: Nagaram

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|---------------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 232/15A1 (OR) | 0 | 10 | 0 | 0 | 25 |
| 224/1A2 (OR) | 0 | 04 | 0 | 0 | 10 |
| 232/15A2 (OR) | 0 | 04 | 0 | 0 | 10 |
| 233/p (OR) | 0 | 16 | 5 | 0 | 41 |
| 236/1B6 (OR) | 0 | 14 | 0 | 0 | 34 |
| 236/B5 (OR) | 0 | 03 | 5 | 0 | 09 |
| 236/B4 (OR) | 0 | 14 | 5 | 0 | 36 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|--------------|----------|-----------|----------|----------|-----------|
| 184/p. (OR) | 0 | 03 | 0 | 0 | 07 |
| 236/B3 (OR) | 0 | 08 | 5 | 0 | 21 |
| 240/p (OR) | 0 | 07 | 5 | 0 | 19 |
| 236/B2 (OR) | 0 | 07 | 0 | 0 | 17 |
| 236/1B1 (OR) | 0 | 18 | 5 | 0 | 46 |
| 239/p (OR) | 0 | 01 | 5 | 0 | 04 |
| 181/1A (OR) | 0 | 01 | 0 | 0 | 02 |
| 180/p (OR) | 0 | 25 | 0 | 0 | 62 |
| 181/C (OR) | 0 | 01 | 5 | 0 | 04 |
| 242/2P (OR) | 0 | 10 | 0 | 0 | 25 |
| 175/p (OR) | 0 | 07 | 5 | 0 | 19 |
| 240/B (OR) | 0 | 16 | 0 | 0 | 39 |
| 145/5A (OR) | 0 | 03 | 0 | 0 | 08 |
| 145/4C (OR) | 0 | 09 | 5 | 0 | 24 |
| 145/5B (OR) | 0 | 03 | 0 | 0 | 08 |
| 146/3 (OR) | 0 | 01 | 0 | 0 | 02 |
| 146/4 (OR) | 0 | 03 | 0 | 0 | 07 |
| 169/1A3 (OR) | 0 | 06 | 0 | 0 | 14 |
| 169/1A4 (OR) | 0 | 08 | 0 | 0 | 20 |
| 169/1A5 (OR) | 0 | 04 | 0 | 0 | 10 |
| 181/A2 (OR) | 0 | 09 | 5 | 0 | 23 |
| 181/2B (OR) | 0 | 09 | 0 | 0 | 27 |
| TOTAL | 2 | 31 | 0 | 5 | 71 |

[F. No. -12016/49/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4570.-केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 747 तारीख 23-2-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी. के. जी. बेसिन, राजामुद्रि एसट द्वारा आन्ध्र प्रदेश राज्य में के.डबल्यू.ऐ.के. के.डबल्यू.डी. बी. के.डबल्यू.ऐ.आई से केसनपल्ली जी.सी.एस. परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 22-07-2005 से उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देते हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरोहित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामुद्रि एसट में निहित होगा।

अनुसूची

आर.ओ.यू. पाइपलाइन : के.डब्लु. ए.के.के. डब्लु.डी.बी.के. डब्लु.ए. आई से केशनपल्ली जी. सी. यस

राज्य : आन्ध्र प्रदेश मंडल : मामिडिकुदुरु
जिला : पूर्व गोदावरी गांव : गोगनामटम सिवारू करवाका

| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
|------------|-----------|------|-----------|------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 395/2 | 0 | 04 | 0 | 0 | 10 |
| 394/2 | | | | | |
| 389/2 | | | | | |
| 389/1बी | 0 | 05 | 5 | 0 | 13 |
| 389/1ए | 0 | 03 | 0 | 0 | 07 1/2 |
| 389/3ए | 0 | 08 | 0 | 5 | 20 |
| 382/पी | 0 | 03 | 5 | 0 | 09 |
| 382/2पी | 0 | 03 | 5 | 0 | 08 |
| 381/4ए | 0 | 05 | 5 | 0 | 12 1/2 |
| 380/एफ | 0 | 02 | 5 | 0 | 06 1/2 |
| 380/बी | 0 | 01 | 0 | 0 | 03 |
| 380/बी2पी | 0 | 02 | 5 | 0 | 06 |
| 372/2बी | 0 | 03 | 5 | 0 | 09 |
| 372/एफ | 0 | 03 | 5 | 0 | 09 |
| 372/पी | 0 | 12 | 0 | 0 | 30 |
| 371/एफ | 0 | 02 | 5 | 0 | 06 |
| 371/सी | 0 | 05 | 5 | 0 | 13 1/2 |
| 371/सी, पी | 0 | 07 | 0 | 0 | 17 1/2 |
| 363/2एपी | 0 | 05 | 0 | 0 | 12 |
| 372/पी | 0 | 18 | 0 | 0 | 44 |
| 381/पी | 0 | 04 | 0 | 0 | 10 |
| 363/1 | 0 | 04 | 0 | 0 | 10 |
| कुल योग 1 | 1 | 03 | 5 | 2 | 56 1/2 |

राज्य : आन्ध्र प्रदेश मंडल : मलिकिपुरम
जिला : पूर्व गोदावरी गांव : केशनपल्ली सिवारू गोलापालेम

| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
|------------|-----------|------|-----------|------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 486/4पी | 0 | 06 | 5 | 0 | 16 |
| 489/2एपी | 0 | 13 | 5 | 0 | 33 1/2 |
| 489/2पी | 0 | 03 | 5 | 0 | 09 |
| 491/4पी | 0 | 01 | 0 | 0 | 02 |
| 492/1पी | 0 | 02 | 0 | 0 | 05 |
| 492/6पी | 0 | 08 | 0 | 0 | 20 |
| 492/7पी | 0 | 09 | 0 | 0 | 22 |
| 502/6पी | 0 | 01 | 5 | 0 | 04 |
| 532/1पी | 0 | 05 | 0 | 0 | 14 |
| 556/सीपी | 0 | 05 | 0 | 0 | 12 |
| कुल योग | 0 | 55 | 5 | 1 | 37 1/2 |

[फा. सं. 12016/50/2006-ओ.एन.जी./डी.ओ.-III]

ओ. पी. बनवारी, अवर सचिव

New Delhi the 22nd November, 2006

S.O. 4570.—whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No. 747 dated 23-02-2005 issued under sub-Section (1) of Section 3 of the Petroleum and Minerals Pipe Lines (Acquisition of Right Of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipeline KWAK, KWDB, KWA1 to KESANAPALI, I GCS in the State of Andhra Pradesh, a pipeline should be laid by the ONGC - RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 22-07-2005.

And whereas no objections have been received from the public to laying of the pipeline by the Competent Authority;

And Whereas the Competent Authority has under sub-Section (1) of Section 6 of the said Act, submitted report to the Central Government;

And Whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, Therefore, in exercise of the powers conferred by sub-Section (i) of Section 6 of the said Act, the Central

Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipe line;

And Further in exercise of the powers conferred by sub-Section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G.Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE

ROU PIPE LINE FROM KWAK, KWDB, KWAI TO KESANAPALLI GCS

State : Andhra Pradesh Mandal : Mamidikuduru
District : East Godavari Village : Karavaka H/o
Gogannamatam

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------|----------|------|---------------|-------|--------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 395/2 | 0 | 04 | 0 | 0 | 10 |
| 394/2 | | | | | |
| 389/2 | | | | | |
| 389/1B | 0 | 05 | 5 | 0 | 13 |
| 389/1A | 0 | 03 | 0 | 0 | 07 1/2 |
| 389/3A | 0 | 08 | 0 | 5 | 20 |
| 382/P | 0 | 03 | 5 | 0 | 09 |
| 382/2P | 0 | 03 | 5 | 0 | 08 |
| 381/4A | 0 | 05 | 5 | 0 | 12 1/2 |
| 380/F | 0 | 02 | 5 | 0 | 06 1/2 |
| 380/B | 0 | 01 | 0 | 0 | 03 |
| 380/B2p | 0 | 02 | 5 | 0 | 06 |
| 372/2B | 0 | 03 | 5 | 0 | 09 |
| 372/F | 0 | 03 | 5 | 0 | 09 |
| 372/P | 0 | 12 | 0 | 0 | 30 |
| 371/F | 0 | 02 | 5 | 0 | 06 |
| 371/C | 0 | 05 | 5 | 0 | 13 1/2 |
| 371/C.P | 0 | 07 | 0 | 0 | 17 1/2 |
| 363/2AP | 0 | 05 | 0 | 0 | 12 |
| 372/P | 0 | 18 | 0 | 0 | 44 |
| 381/P | 0 | 04 | 0 | 0 | 10 |
| 363/1 | 0 | 04 | 0 | 0 | 10 |
| Total | 1 | 03 | 5 | 2 | 56 1/2 |

State : Andhra Pradesh Mandal : Malikipuram
District : East Godavari Village : Gollapalem H/o
Kesanapalli

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------|----------|------|---------------|-------|--------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 486/4P | 0 | 06 | 5 | 0 | 16 |
| 489/2AP | 0 | 13 | 5 | 0 | 33 1/2 |
| 489/2P | 0 | 03 | 5 | 0 | 09 |
| 491/4P | 0 | 01 | 0 | 0 | 02 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|--------|---|----|---|---|--------|
| 492/1P | 0 | 02 | 0 | 0 | 05 |
| 492/6P | 0 | 08 | 0 | 0 | 20 |
| 492/7P | 0 | 09 | 0 | 0 | 22 |
| 502/6P | 0 | 01 | 5 | 0 | 04 |
| 532/1P | 0 | 05 | 0 | 0 | 14 |
| 556/CP | 0 | 05 | 0 | 0 | 12 |
| TOTAL | 0 | 55 | 5 | 1 | 37 1/2 |

[F.No. 12016/50/2006-O.N.G./D.O.-III]

O. P. BANWARI, Under, Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4571.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि आन्ध्र प्रदेश राज्य में आर. ओ. यू. पाइप लाइन पी. एम. ए. बी. से पनुमदम-1 तक पेट्रोलियम के लिये पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों के बिछाने के प्रयोजन के लिये एतद्पाद अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्त कि उक्त भूमि में हितबद कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग राजामुन्द्रि एस&के. जी. बेसिन. ओ. एन. जी. सी. गोदावरी भवन राजामुन्द्रि, आन्ध्र प्रदेश अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति, यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से या किसी विधि व्यवसायी की मार्फत।

अनुसूची

आर.ओ.यू. पाइपलाइन : पी.एम.ए.बी. से पनुमदम-1

| | | | | | |
|------------|---------------|--------|------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | पोडुक्क | | |
| जिला : | पूर्व गोदावरी | गांव : | गुम्मुलुरु | | |
| आर. एस. नं | हेक्टेयर्स | एर्स | सेन्टेयर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 92/पी | 0 | 05 | 5 | 0 | 13½ |
| 90/पी | 0 | 05 | 5 | 0 | 14 |
| 103/पी | 0 | 06 | 0 | 0 | 15 |
| 104/2पी | 0 | 07 | 0 | 0 | 17 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------|---|----|---|---|--------|
| 104/1पी | 0 | 08 | 0 | 0 | 20 |
| 431/पी | 0 | 08 | 0 | 0 | 20 |
| 432/3पी | 0 | 01 | 5 | 0 | 04 |
| 89/पी | 0 | 09 | 5 | 0 | 24 |
| 432/2पी | 0 | 01 | 0 | 0 | 03 |
| कुल योग : | 0 | 52 | 5 | 1 | 30 1/2 |

| | | | | | |
|------------------------------|----------------|--------|--------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | पोडुरु | | |
| जिला : | पूर्व गोदावारी | गांव : | ए. वेमावाराम | | |
| आर. एस. नं | हेक्टेअर्स | एअर्स | सेन्टेअर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 87/पी (Drain) | 0 | 07 | 5 | 0 | 19 |
| 75/1पी | 0 | 07 | 0 | 0 | 17 |
| 75/2पी | 0 | 05 | 5 | 0 | 13 |
| 75/3पी | 0 | 04 | 5 | 0 | 11 |
| 76/4ए | 0 | 03 | 0 | 0 | 07 |
| 76/4बी | 0 | 04 | 5 | 0 | 11 |
| 76/3पी | 0 | 03 | 0 | 0 | 08 |
| 71/4बीपी | 0 | 00 | 5 | 0 | 01 |
| 71/5पी | 0 | 00 | 5 | 0 | 01 |
| 73/1बीपी | 0 | 10 | 0 | 0 | 25 |
| 73/1बीपी | 0 | 00 | 5 | 0 | 01 |
| 73/1 सीपी | 0 | 00 | 5 | 0 | 01 |
| 92/पी (पीडब्ल्यूडी) Canal | 0 | 01 | 0 | 0 | 03 |
| 95/2डीपी | 0 | 04 | 5 | 0 | 11 |
| 95/2सीपी | 0 | 04 | 5 | 0 | 11 |
| कुल योग: | 0 | 56 | 5 | 1 | 40 |

[फा. सं. 12016/54/2006-ओ.एन.जी./डी.ओ.-III]

ओ. पी. बनवारी, अवर सचिव

New Delhi the 22nd November, 2006

S.O. 4571.—Whereas it appears to the Central Government that is necessary in the public interest that for the transport of petroleum from “PMAB to PENUMADAM - I in the A.P. state pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And Whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:

Now therefore in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the

land Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipe line under the land to the Competent Authority Oil & Natural Gas Corporation Ltd, Rajahmundry Asset/ K.G., Basin, Godavari Bhavan, Base complex, Rajahmundry, Andhra Pradesh.

And every person making such any objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

SCHEDULE

ROU PIPE LINE FROM PMAB TO PENUMADAM-I

| | | | | | |
|------------------|-------------------------|------|-----------------------|--------|-------|
| State : | Andhra Pradesh Mandal : | | | Poduru | |
| District : | East Godavari | | Village: A. Vemavaram | | |
| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 87/P (Drain) | 0 | 07 | 5 | 0 | 19 |
| 75/1P | 0 | 07 | 0 | 0 | 17 |
| 75/2P | 0 | 05 | 5 | 0 | 13 |
| 75/3P | 0 | 04 | 5 | 0 | 11 |
| 76/4A | 0 | 03 | 0 | 0 | 07 |
| 76/4B | 0 | 04 | 5 | 0 | 11 |
| 76/3P | 0 | 03 | 0 | 0 | 08 |
| 71/4BP | 0 | 00 | 5 | 0 | 01 |
| 71/5P | 0 | 00 | 5 | 0 | 01 |
| 73/1BP | 0 | 10 | 0 | 0 | 25 |
| 73/1AP | 0 | 00 | 5 | 0 | 01 |
| 73/1 CP | 0 | 00 | 5 | 0 | 01 |
| 92/P (PWD canal) | 0 | 01 | 0 | 0 | 03 |
| 95/2DP | 0 | 04 | 5 | 0 | 11 |
| 95/2CP | 0 | 04 | 5 | 0 | 11 |
| Total : | 0 | 56 | 5 | 1 | 40 |

| | | | | | |
|------------|----------------|-----------|---------------|-------|-------|
| State : | Andhra Pradesh | Mandal : | Poduru | | |
| District : | East Godavari | Village : | Gummuluru | | |
| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 92/P | 0 | 05 | 5 | 0 | 13½ |
| 90/P | 0 | 05 | 5 | 0 | 14 |
| 103/P | 0 | 05 | 0 | 0 | 15 |
| 104/2P | 0 | 07 | 0 | 0 | 17 |
| 104/1P | 0 | 08 | 0 | 0 | 20 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------|---|----|---|---|--------|
| 431/P | 0 | 08 | 0 | 0 | 20 |
| 432/3P | 0 | 01 | 5 | 0 | 04 |
| 89/P | 0 | 09 | 5 | 0 | 24 |
| 432/2P | 0 | 01 | 0 | 0 | 03 |
| Total : | 0 | 52 | 5 | 1 | 30 1/2 |

[F.No. 12016/54/2006. ONG/DO-III]

O. P. BANWARI, Under, Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4572.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि आंध्र प्रदेश राज्य में आर. ओ. यु. पाइप लाइन : आर.जेड. ए.ए. से नारसापुर जी.सी.एस. तक पेट्रोलियम के लिये पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों के बिछाने के प्रयोजन के लिये एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग राजामन्दि एस्टेट/के. जी. बेसिन. ओ. एन. जी. सी. गोदावारी भवन राजामन्दि आन्ध्र प्रदेश अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से या किसी विधि व्यवसायी की मार्फत।

अनुसूची

आर.ओ.यु. पाइपलाइन : आर.जेड. ये.ये से नारसापुर
जि.सि.एस.

| | | | | | |
|------------|----------------|--------|----------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | येलामंचालि | | |
| जिला : | पश्चिम गोदावरी | गांव : | येनुगुवानिलंका | | |
| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 144 | 0 | 29 | 0 | 0 | 72 1/2 |
| 152/10 | 0 | 06 | 5 | 0 | 16 1/2 |
| 152/11 | 0 | 03 | 5 | 0 | 09 |
| 152/12 | 0 | 03 | 0 | 0 | 07 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|------------|---|----|---|---|--------|
| 152/6पी | 0 | 02 | 5 | 0 | 06 |
| 152/6पी | 0 | 02 | 5 | 0 | 06 |
| 152/5 | 0 | 03 | 0 | 0 | 08 |
| 152/2पी | 0 | 02 | 0 | 0 | 05 1/2 |
| 152/2पी | 0 | 02 | 0 | 0 | 05 1/2 |
| 152/3पी | 0 | 03 | 0 | 0 | 08 1/2 |
| 156/3पी | 0 | 02 | 0 | 0 | 05 |
| 156/3पी | 0 | 02 | 0 | 0 | 05 |
| 156/8 | 0 | 03 | 5 | 0 | 09 1/2 |
| 156/2सी | 0 | 01 | 0 | 0 | 03 1/2 |
| 156/2ए | 0 | 02 | 0 | 0 | 05 1/2 |
| 155/4बी | 0 | 01 | 5 | 0 | 04 |
| 155/4ए | 0 | 01 | 5 | 0 | 04 |
| 155/1ए | 0 | 04 | 0 | 0 | 10 1/2 |
| 182/1डी | 0 | 04 | 5 | 0 | 11 1/2 |
| 155/3पी | 0 | 01 | 5 | 0 | 04 1/2 |
| 155/3पी | 0 | 01 | 0 | 0 | 02 1/2 |
| 155/1बी पी | 0 | 03 | 0 | 0 | 08 |
| 155/1बी पी | 0 | 01 | 0 | 0 | 02 1/2 |
| 182/1सी | 0 | 03 | 0 | 0 | 07 |
| 183/3पी | 0 | 02 | 0 | 0 | 05 |
| 200/7 | | | | | |
| 183/3पी | 0 | 02 | 0 | 0 | 05 |
| 183/2 | 0 | 07 | 5 | 0 | 19 |
| 189/1पी | 0 | 05 | 5 | 0 | 13 1/2 |
| 200/3पी | | | | | |
| 189/1पी | 0 | 03 | 0 | 0 | 08 1/2 |
| 189/2 | 0 | 03 | 0 | 0 | 07 1/2 |
| 189/1पी | 0 | 03 | 0 | 0 | 07 1/2 |
| 189/1पी | 0 | 03 | 0 | 0 | 07 |
| 190/1सी | 0 | 05 | 5 | 0 | 13 1/2 |
| 190/1बी | 0 | 01 | 0 | 0 | 02 |
| 200/3पी | 0 | 02 | 5 | 0 | 06 |
| 190/2सी | 0 | 02 | 0 | 0 | 05 |
| 190/2बी | 0 | 02 | 0 | 0 | 05 |
| 190/1ए | 0 | 05 | 0 | 0 | 12 |
| 190/1बी | 0 | 02 | 0 | 0 | 05 |
| 200/8 | 0 | 07 | 0 | 0 | 17 1/2 |
| 200/4 | 0 | 03 | 5 | 0 | 09 |
| 200/2 | 0 | 04 | 5 | 0 | 11 1/2 |
| 199/1 | 0 | 09 | 0 | 0 | 22 1/2 |

| 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 6 |
|---------|---|----|---|---|------|----------|---|----|---|---|------|
| 199/2 | 0 | 03 | 0 | 0 | 07 ½ | 181/10-1 | 0 | 03 | 0 | 0 | 08 |
| 200/1 | 0 | 06 | 0 | 0 | 15 ½ | 181/5-2 | 0 | 01 | 0 | 0 | 03 |
| 193/3पी | 0 | 02 | 5 | 0 | 06 | 181/5-1 | 0 | 03 | 0 | 0 | 08 |
| 193/3पी | 0 | 02 | 5 | 0 | 06 | 181/2पी | 0 | 03 | 0 | 0 | 08 |
| 211/पी | 0 | 06 | 5 | 0 | 16 ½ | 164/12पी | 0 | 04 | 5 | 0 | 11 ½ |
| 156/2ए | 0 | 02 | 0 | 0 | 05 ½ | 164/8पी | 0 | 02 | 5 | 0 | 06 ½ |
| कुल : | 1 | 88 | 5 | 4 | 66 ½ | 164/8पी | 0 | 01 | 0 | 0 | 03 |
| | | | | | | 164/7पी | 0 | 01 | 0 | 0 | 03 ½ |
| | | | | | | 164/2, 3 | 0 | 01 | 0 | 0 | 03 |
| | | | | | | 164/4पी | 0 | 01 | 0 | 0 | 02 |
| | | | | | | 164/4पी | 0 | 01 | 0 | 0 | 03 |
| | | | | | | 161/5पी | 0 | 01 | 5 | 0 | 04 ½ |
| | | | | | | 161/6पी | 0 | 02 | 0 | 0 | 05 ½ |
| | | | | | | 160/7पी | 0 | 03 | 5 | 0 | 09 |
| | | | | | | 160/2पी | 0 | 03 | 0 | 0 | 07 ½ |
| | | | | | | 160/6पी | 0 | 03 | 0 | 0 | 07 ½ |
| | | | | | | 156/2पी | 0 | 02 | 5 | 0 | 06 |
| | | | | | | 45/4पी | 0 | 06 | 0 | 0 | 15 |
| | | | | | | 45/1पी | 0 | 05 | 0 | 0 | 12 ½ |
| | | | | | | 46/3सी | 0 | 05 | 0 | 0 | 12 |
| | | | | | | 46/3बी | 0 | 08 | 0 | 0 | 20 |
| | | | | | | 63/7 | 0 | 05 | 0 | 0 | 12 ½ |
| | | | | | | 63/8पी | 0 | 04 | 5 | 0 | 11 |
| | | | | | | 63/8पी | 0 | 04 | 5 | 0 | 11 |
| | | | | | | 65/11डी | 0 | 01 | 0 | 0 | 03 ½ |
| | | | | | | 65/11सी | 0 | 02 | 0 | 0 | 05 |
| | | | | | | 65/11बी | 0 | 02 | 5 | 0 | 06 |
| | | | | | | 65/11ए | 0 | 01 | 0 | 0 | 03 ½ |
| | | | | | | 65/10 | 0 | 02 | 5 | 0 | 06 ½ |
| | | | | | | 65/9 | 0 | 01 | 5 | 0 | 04 |
| | | | | | | 71/4 | 0 | 03 | 5 | 0 | 09 ½ |
| | | | | | | 71/3 | 0 | 03 | 5 | 0 | 09 |
| | | | | | | 71/1 | 0 | 06 | 0 | 0 | 15 |
| | | | | | | 161/3 | 0 | 01 | 5 | 0 | 04 |
| | | | | | | 161/4 | 0 | 01 | 5 | 0 | 04 ½ |
| | | | | | | 72/1 | 0 | 12 | 0 | 0 | 30 ½ |
| | | | | | | 72/6 | 0 | 03 | 0 | 0 | 07 |
| | | | | | | 68/1बी | 0 | 02 | 5 | 0 | 06 |
| | | | | | | 68/2 | 0 | 05 | 0 | 0 | 12 ½ |
| | | | | | | 72/7 | 0 | 04 | 0 | 0 | 10 ½ |
| | | | | | | 68/1ए | 0 | 02 | 5 | 0 | 06 |
| | | | | | | 112/4बी | 0 | 07 | 5 | 0 | 19 ½ |

राज्य : आन्ध्र प्रदेश मंडल : नरसापुर

जिले : पश्चिम गोदावरी गांव : नावारासापुराम

आर. एस. नं. हेक्टेयर्स एर्स सेन्टेयर्स एकड़ सेन्ट्स

| 1 | 2 | 3 | 4 | 5 | 6 |
|----------|---|----|---|---|------|
| 224 | 0 | 01 | 0 | 0 | 03 |
| 224 | 0 | 01 | 0 | 0 | 03 |
| 208 | 0 | 05 | 5 | 0 | 14 ½ |
| 209 | 0 | 04 | 0 | 0 | 10 |
| 161/1 | 0 | 03 | 0 | 0 | 08 ½ |
| 161/3 | 0 | 01 | 5 | 0 | 04 |
| 210 | 0 | 01 | 0 | 0 | 02 ½ |
| 45/5 | 0 | 04 | 0 | 0 | 10 |
| 215 | 0 | 17 | 0 | 0 | 42 ½ |
| 190/1 | 0 | 14 | 5 | 0 | 36 |
| 190/2 | 0 | 15 | 0 | 0 | 37 |
| 187/1पी | 0 | 04 | 0 | 0 | 10 |
| 187/1पी | 0 | 02 | 0 | 0 | 05 |
| 176/1सी | 0 | 06 | 0 | 0 | 15 |
| 176/1बी | 0 | 03 | 0 | 0 | 08 |
| 176/1ए | 0 | 01 | 5 | 0 | 04 |
| 177/2डी | 0 | 03 | 5 | 0 | 09 |
| 177/2सी | 0 | 01 | 0 | 0 | 03 ½ |
| 177/2बी | 0 | 01 | 0 | 0 | 03 ½ |
| 177/2ए | 0 | 02 | 5 | 0 | 06 ½ |
| 177/1 | 0 | 02 | 0 | 0 | 05 ½ |
| 178/2डी | 0 | 02 | 0 | 0 | 05 ½ |
| 178/2सी | 0 | 04 | 5 | 0 | 11 |
| 178/2बी | 0 | 03 | 0 | 0 | 07 |
| 178/1ए | 0 | 02 | 5 | 0 | 06 |
| 181/11पी | 0 | 03 | 0 | 0 | 08 |
| 181/16पी | 0 | 05 | 5 | 0 | 13 ½ |
| 181/10-2 | 0 | 02 | 0 | 0 | 05 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------|---|----|---|---|------|
| 112/4सी | 0 | 02 | 5 | 0 | 06 ½ |
| 112/1 | 0 | 09 | 5 | 0 | 24 |
| 111 | 0 | 07 | 5 | 0 | 19 |
| 110/पी | 0 | 03 | 0 | 0 | 07 |
| 65/5पी | 0 | 02 | 5 | 0 | 06 ½ |
| 65/5पी | 0 | 02 | 5 | 0 | 06 ½ |
| 223/8ए | 0 | 05 | 5 | 0 | 13 |
| 223/8बी | 0 | 03 | 0 | 0 | 08 |
| 223/9ए | 0 | 06 | 0 | 0 | 15 ½ |
| 178/2 | 0 | 02 | 0 | 0 | 05 ½ |
| कुल : | 3 | 09 | 0 | 7 | 63 ½ |

| | | | | | |
|------------|----------------|--------|--------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | नरसापुर | | |
| जिले : | पश्चिम गोदावरी | गांव : | माधावाईपालेम | | |
| आर. एस. नं | हेक्टेअर्स | एर्स | सेन्टेअर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 77/5 | 0 | 05 | 5 | 0 | 14 |
| 77/2पी | 0 | 04 | 0 | 0 | 10 |
| 77/2पी | 0 | 04 | 0 | 0 | 10 |
| 73/1 | 0 | 09 | 0 | 0 | 22 ½ |
| 73/2 | 0 | 06 | 0 | 0 | 15 |
| 73/3 | 0 | 05 | 5 | 0 | 14 |
| 72/2(पी) | 0 | 08 | 0 | 0 | 20 |
| 72/2पी | 0 | 08 | 5 | 0 | 21 |
| 68/2 | 0 | 09 | 5 | 0 | 24 |
| 68/4 | 0 | 09 | 5 | 0 | 23 |
| 63/पी | 0 | 17 | 5 | 0 | 43 |
| 62/3पी | 0 | 07 | 5 | 0 | 18 ½ |
| कुल : | 0 | 95 | 0 | 2 | 35 |

| | | | | | |
|------------|----------------|--------|------------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | नरसापुर | | |
| जिले : | पश्चिम गोदावरी | गांव : | चिनामामिडिपाल्लि | | |
| आर. एस. नं | हेक्टेअर्स | एर्स | सेन्टेअर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 84/2पी | 0 | 06 | 0 | 0 | 15 |

[सं. 12016/56/2006-ओ.एन.जी./डी.ओ.-III]

ओ.पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006

S.O. 4572.—Whereas it appears to the Central Government that it is necessary in the public interest that for

the transport of petroleum from "RZAA to NARASAPUR GCS I" in the A. P. State Pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And Whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :—

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipe line under the land to the Competent Authority Oil & Natural Gas Corporation Ltd., Rajahmundry Asset/ K.G.. Basin, Godavari Bhavan, Base complex, Rajahmundry, Andhra Pradesh.

AND every person making such any objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

SCHEDULE

ROU PIPE LINE FROM RZAA TO NARSAPUR
GCS I

| | | | | | |
|------------|----------------|-----------|------------------|-------|-------|
| State : | Andhra Pradesh | Mandal : | Elamanchili | | |
| District : | West Godavari | Village : | Yenuguvani Lanka | | |
| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 144 | 0 | 29 | 0 | 0 | 72½ |
| 152/10 | 0 | 06 | 5 | 0 | 16 ½ |
| 152/11 | 0 | 03 | 5 | 0 | 09 |
| 152/12 | 0 | 03 | 0 | 0 | 07 |
| 152/6P | 0 | 02 | 5 | 0 | 06 |
| 152/6P | 0 | 02 | 5 | 0 | 06 |
| 152/5 | 0 | 03 | 0 | 0 | 08 |
| 152/2P | 0 | 02 | 0 | 0 | 05 ½ |
| 152/2P | 0 | 02 | 0 | 0 | 05 ½ |
| 156/3P | 0 | 03 | 0 | 0 | 08 ½ |
| 156/3P | 0 | 02 | 0 | 0 | 05 |
| 156/3P | 0 | 02 | 0 | 0 | 05 |
| 156/8 | 0 | 03 | 5 | 0 | 09½ |
| 156/2C | 0 | 01 | 0 | 0 | 03½ |
| 156/2A | 0 | 02 | 0 | 0 | 05½ |

| | | | | | | | | | |
|----------|---|----|---|---|-----|------------|----------------|-----------|---------------|
| 155/4B | 0 | 01 | 5 | 0 | 04 | State : | Andhra Pradesh | Mandal : | Narsapur |
| 155/4A | 0 | 01 | 5 | 0 | 04 | District : | West Godavari | Village : | Navarasapuram |
| 155/1A | 0 | 04 | 0 | 0 | 10½ | R.S. No. | Hectares | Ares | Centi Ares |
| 182/1D | 0 | 04 | 5 | 0 | 11½ | | | | |
| 155/3P | 0 | 01 | 5 | 0 | 04½ | 1 | 2 | 3 | 4 |
| 155/3p | 0 | 01 | 0 | 0 | 02½ | 224 | 0 | 01 | 0 |
| 155/1B P | 0 | 03 | 0 | 0 | 08 | 224 | 0 | 01 | 0 |
| 155/1BP | 0 | 01 | 0 | 0 | 02½ | 208 | 0 | 05 | 5 |
| 182/1C | 0 | 03 | 0 | 0 | 07 | 209 | 0 | 04 | 0 |
| 183/3P | 0 | 02 | 0 | 0 | 05 | 161/1 | 0 | 03 | 0 |
| 200/7 | | | | | | 161/3 | 0 | 01 | 5 |
| 183/3P | 0 | 02 | 0 | 0 | 05 | 210 | 0 | 01 | 0 |
| 183/2 | 0 | 07 | 5 | 0 | 19 | 45/5 | 0 | 04 | 0 |
| 189/1P | 0 | 05 | 5 | 0 | 13½ | 215 | 0 | 17 | 0 |
| 200/3P | | | | | | 190/1 | 0 | 14 | 5 |
| 189/1p | 0 | 03 | 0 | 0 | 08½ | 190/2 | 0 | 15 | 0 |
| 189/2 | 0 | 03 | 0 | 0 | 07½ | 187/1P | 0 | 04 | 0 |
| 189/1P | 0 | 03 | 0 | 0 | 07½ | 187/1P | 0 | 02 | 0 |
| 189/1P | 0 | 03 | 0 | 0 | 07 | 176/1C | 0 | 06 | 0 |
| 190/1C | 0 | 0 | 5 | 0 | 13½ | 176/1B1 | 0 | 03 | 0 |
| 190/1B | 0 | 01 | 0 | 0 | 02 | 176/1A | 0 | 01 | 5 |
| 200/3P | 0 | 02 | 5 | 0 | 06 | 177/2D | 0 | 03 | 5 |
| 190/2C | 0 | 02 | 0 | 0 | 05 | 177/2C | 0 | 01 | 0 |
| 190/2B | 0 | 02 | 0 | 0 | 05 | 177/2B | 0 | 01 | 0 |
| 190/1A | 0 | 05 | 0 | 0 | 12 | 177/2A | 0 | 02 | 5 |
| 191/1B | 0 | 02 | 0 | 0 | 05 | 177/1 | 0 | 02 | 0 |
| 200/8 | 0 | 07 | 0 | 0 | 17½ | 178/2D | 0 | 02 | 0 |
| 200/4 | 0 | 03 | 5 | 0 | 09 | 178/2C | 0 | 04 | 5 |
| 200/2 | 0 | 04 | 5 | 0 | 11½ | 178/2B | 0 | 03 | 0 |
| 199/1 | 0 | 09 | 0 | 0 | 22½ | 178/1A | 0 | 02 | 5 |
| 199/2 | 0 | 03 | 0 | 0 | 07½ | 181/11P | 0 | 03 | 0 |
| 200/1 | 0 | 06 | 0 | 0 | 15½ | 181/16P | 0 | 05 | 5 |
| 193/3P | 0 | 02 | 5 | 0 | 06 | 181/10-2 | 0 | 02 | 0 |
| 193/3P | 0 | 02 | 5 | 0 | 06 | 181/10-1 | 0 | 03 | 0 |
| 211/P | 0 | 06 | 5 | 0 | 16½ | 181/5-2 | 0 | 01 | 0 |
| 156/2A | 0 | 02 | 0 | 0 | 05½ | 181/5-1 | 0 | 03 | 0 |
| TOTAL: | 1 | 88 | 5 | 4 | 66½ | 181/2 P | 0 | 03 | 0 |
| | | | | | | 164/12 P | 0 | 04 | 5 |
| | | | | | | 164/8 P | 0 | 02 | 5 |
| | | | | | | 164/8P | 0 | 01 | 0 |
| | | | | | | 164/7P | 0 | 01 | 0 |
| | | | | | | 164/2, 3 | 0 | 01 | 0 |
| | | | | | | 164/4 P | 0 | 01 | 0 |
| | | | | | | 164/4 P | 0 | 01 | 0 |
| | | | | | | 161/5 P | 0 | 01 | 5 |
| | | | | | | 161/6 P | 0 | 02 | 0 |
| | | | | | | 160/7 P | 0 | 03 | 5 |
| | | | | | | 160/2 P | 0 | 03 | 0 |
| | | | | | | 160/6 P | 0 | 03 | 0 |
| | | | | | | 156/2 P | 0 | 02 | 5 |
| | | | | | | 45/4P | 0 | 06 | 0 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------------|----------|-----------|----------|----------|------------|
| 45/1P | 0 | 05 | 0 | 0 | 12½ |
| 46/3C | 0 | 05 | 0 | 0 | 12 |
| 46/3B | 0 | 08 | 0 | 0 | 20 |
| 63/7 | 0 | 05 | 0 | 0 | 12½ |
| 63/8P | 0 | 04 | 5 | 0 | 11 |
| 63/8P | 0 | 04 | 5 | 0 | 11 |
| 65/11D | 0 | 01 | 0 | 0 | 03½ |
| 65/11C | 0 | 02 | 0 | 0 | 05 |
| 65/11B | 0 | 02 | 5 | 0 | 06 |
| 65/11A | 0 | 01 | 0 | 0 | 03½ |
| 65/10 | 0 | 02 | 5 | 0 | 06½ |
| 65/9 | 0 | 01 | 5 | 0 | 04 |
| 71/4 | 0 | 03 | 5 | 0 | 09½ |
| 71/3 | 0 | 03 | 5 | 0 | 09 |
| 71/1 | 0 | 06 | 0 | 0 | 15 |
| 161/3 | 0 | 01 | 5 | 0 | 04 |
| 161/4 | 0 | 01 | 5 | 0 | 04½ |
| 72/1 | 0 | 12 | 0 | 0 | 30½ |
| 72/6 | 0 | 03 | 0 | 0 | 07 |
| 68/1B | 0 | 02 | 5 | 0 | 06 |
| 68/2 | 0 | 05 | 0 | 0 | 12½ |
| 72/7 | 0 | 04 | 0 | 0 | 10½ |
| 68/1A | 0 | 02 | 5 | 0 | 06 |
| 112/4B | 0 | 07 | 5 | 0 | 19½ |
| 112/4C | 0 | 02 | 5 | 0 | 06½ |
| 112/1 | 0 | 09 | 5 | 0 | 24 |
| 111 | 0 | 07 | 5 | 0 | 19 |
| 110P | 0 | 03 | 0 | 0 | 07 |
| 65/5P | 0 | 02 | 5 | 0 | 06 |
| 65/5P | 0 | 02 | 5 | 0 | 06 |
| 223/8A | 0 | 05 | 5 | 0 | 13 |
| 223/8B | 0 | 03 | 0 | 0 | 08 |
| 223/9A | 0 | 06 | 0 | 0 | 15½ |
| 178/2 | 0 | 02 | 0 | 0 | 05½ |
| TOTAL: | 3 | 09 | 0 | 7 | 63½ |

ROU PIPELINE FROM RZAA to NARSAPUR GCSI

| | | | | | |
|------------|----------------|------|---------------|---------------|-------|
| State : | Andhra Pradesh | | Mandal : | Narsapur | |
| District : | West Godavari | | Village : | Madhavaipalem | |
| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 77/5 | 0 | 05 | 5 | 0 | 14 |
| 77/2P | 0 | 04 | 0 | 0 | 10 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------------|----------|-----------|----------|----------|-----------|
| 77/2P | 0 | 04 | 0 | 0 | 10 |
| 73/1 | 0 | 09 | 0 | 0 | 22½ |
| 73/2 | 0 | 06 | 0 | 0 | 15 |
| 73/3 | 0 | 05 | 5 | 0 | 14 |
| 72/2(P) | 0 | 08 | 0 | 0 | 20 |
| 72/2P | 0 | 08 | 5 | 0 | 21 |
| 68/2 | 0 | 09 | 5 | 0 | 24 |
| 68/4 | 0 | 09 | 5 | 0 | 23 |
| 63/P | 0 | 17 | 5 | 0 | 43 |
| 62/3p | 0 | 07 | 5 | 0 | 18½ |
| TOTAL: | 0 | 95 | 0 | 2 | 35 |

ROU PIPELINE FROM RZAA to NARSAPUR GCSI

| | | | | | |
|------------|----------------|------|---------------|------------------|-------|
| State : | Andhra Pradesh | | Mandal : | Narsapur | |
| District : | West Godavari | | Village: | Chinamamidipalli | |
| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 82/2P | 0 | 06 | 0 | 0 | 15 |

[No. 12016/56/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4573.—केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी, भारत सरकार के पेट्रोलियम और प्रकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 763 तारीख 23-2-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी. के. जी. बेसिन, राजामर्दि एस्ट द्वारा आन्ध्र प्रदेश राज्य में पासरलापुडी-28 से पासरलापुडी-181/सी परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 22-07-2005 से उपलब्ध करा दी गई थीं;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देते हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरोहित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामंद्री एसट में निहित होगा।

अनुसूची

आर.ओ.यु. पाइपलाइन : पासरलपुडी-28 से
पासरलपुडी-181/सी

| राज्य : | आन्ध्र प्रदेश | मंडल : | मामिडिकुदुरु | | |
|--------------|---------------|-----------|--------------|----------|-------------|
| जिला : | पूर्व गोदावरी | गांव : | पासरलपुडी | | |
| आर. एस. नं. | हेक्टेएस | एस | सेन्टेएस | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 299/2A | 0 | 01 | 0 | 0 | 03 ½ |
| 304/3B | 0 | 09 | 5 | 0 | 23 |
| 304/3A | 0 | 09 | 5 | 0 | 23 |
| 304/4 | 0 | 03 | 0 | 0 | 7 ½ |
| 305/4 | 0 | 03 | 0 | 0 | 07 |
| 303/1A2 | 0 | 03 | 0 | 0 | 07 |
| 303/2B | 0 | 05 | 0 | 0 | 12 |
| 303/2C | 0 | 03 | 0 | 0 | 09 ½ |
| TOTAL | 0 | 37 | 0 | 0 | 92 ½ |

[फा. सं.-12016/57/2006-ओ. एन. जी./डी ओ-III]

ओ. पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006

S.O. 4573.—whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 763 dated 23-2-2005 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipeline PASARLAPUDI-28 to PASARLAPUDI-181/C in the State

of Andhra Pradesh, a pipeline should be laid by the ONGC—RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 22-07-2005.

And whereas no objections have been received from the public to laying of the pipeline by the Competent Authority;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G. Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE

ROU PIPELINE FROM Pasarlapudi-28 TO Pasarlapudi-181/C

| State : | Andhra Pradesh Mandal: Mamidikuduru | | | | |
|--------------|-------------------------------------|----------------------|---------------|----------|-------------|
| District : | East Godavari | Village: Pasarlapudi | | | |
| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 299/2A | 0 | 01 | 0 | 0 | 03 ½ |
| 304/3B | 0 | 09 | 5 | 0 | 23 |
| 304/3A | 0 | 09 | 5 | 0 | 23 |
| 304/4 | 0 | 03 | 0 | 0 | 7 ½ |
| 305/4 | 0 | 03 | 0 | 0 | 07 |
| 303/1A2 | 0 | 03 | 0 | 0 | 07 |
| 303/2B | 0 | 05 | 0 | 0 | 12 |
| 303/2C | 0 | 03 | 0 | 0 | 09 ½ |
| TOTAL | 0 | 37 | 0 | 0 | 92 ½ |

[F. No. -12016/57/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

क्र.आ. 4574.—केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 758 तारीख 23-2-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी. के. जी. बेसिन, राजामंद्री एसट द्वारा आन्ध्र प्रदेश राज्य में के.वि.ऐ.जी. से के.वि.ऐ. डी परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 29-7-2005 से उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देते हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरोहित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमां से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामंद्री एसट में निहित होगा।

अनुसूची

आर.ओ.यू. पाइपलाईन : के.वि.ऐ.जी. से के.वि.ऐ.डी

| | | | | | |
|-------------|----------------|--------|--------------|------|-------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | सकीनेटिपल्ली | | |
| जिले : | पूर्व गोदावारी | गांव : | अंतरवेदीकारा | | |
| आर. एस. नं. | हेक्टेएस | एर्स | सेन्टेएस | एकड़ | सेन्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 667/4पी | 0 | 07 | 0 | 0 | 17½ |
| 669/ए | 0 | 09 | 0 | 0 | 23 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------|---|----|---|---|-----|
| 669/बी | 0 | 04 | 0 | 0 | 10 |
| 669/सी | 0 | 03 | 0 | 0 | 07½ |
| 672/1पी | 0 | 03 | 0 | 0 | 06½ |
| 672/बी | 0 | 12 | 0 | 0 | 29½ |
| 672/पी | 0 | 07 | 0 | 0 | 18 |
| 672/पी | 0 | 05 | 0 | 0 | 12½ |
| जोड़ | 0 | 50 | 0 | 1 | 24½ |

[फा. सं. -12016/52/2006-ओ. एन. जी./डी. ओ.-III]

ओ. पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006

S.O. 4574.—whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S.O. 758 dated 23-2-2005 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipe lines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipeline KVAG to KVAD in the State of Andhra Pradesh, a pipeline should be laid by the ONGC—RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 29-7-2005.

And whereas no objections have been received from the public to the laying of the pipeline by the Competent Authority;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G. Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE

ROU PIPELINE FROM KVAG to KVAD

| State : Andhra Pradesh | Mandal : Sakhinetipalli | | | | |
|--------------------------|-------------------------|-----------|---------------|----------|------------|
| District : East Godavari | Village : Antarvedikara | | | | |
| R.S. No. | Hectares | Ares | Centi Ares | Ares | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 667/4P | 0 | 07 | 0 | 0 | 17½ |
| 669/A | 0 | 09 | 0 | 0 | 23 |
| 669/B | 0 | 04 | 0 | 0 | 10 |
| 669/C | 0 | 03 | 0 | 0 | 07½ |
| 672/1P | 0 | 03 | 0 | 0 | 06½ |
| 672/B | 0 | 12 | 0 | 0 | 29½ |
| 672/P | 0 | 07 | 0 | 0 | 18 |
| 672/P | 0 | 05 | 0 | 0 | 12½ |
| TOTAL | 0 | 50 | 0 | 1 | 24½ |

[F. No. 12016/52/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4575.—केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 760 तारीख 23-02-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी. के. जी. बेसिन, राजामंद्री एसट द्वारा आन्ध्र प्रदेश राज्य में लिंगाला II से जी.सी.एस लिंगाला परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 27-07-2005 से उपलब्ध करा दी गई थीं;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देते हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरहित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामंद्री एसट में निहित होगा।

अनुसूची

आर.ओ.यू. पाइपलाइन : लिंगाला II से जी.सी.एस II लिंगाला

| | | | | | |
|------------|---------------|--------|-------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | मुदनेपल्ली | | |
| जिले : | पूर्व गोदावरी | गांव : | पेरिकिगुडेम | | |
| आर. एस. नं | हेक्टेएस | एस | सेन्टेएस | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 831/2 | 0 | 08 | 0 | 0 | 20 |
| 835/1ए | 0 | 04 | 0 | 0 | 10 |
| 835/1बी | 0 | 06 | 0 | 0 | 15 |
| 835/1सी | 0 | 04 | 0 | 0 | 10 |
| 835/6बी | 0 | 02 | 0 | 0 | 05 |
| 836/6सी | 0 | 02 | 5 | 9 | 05 ½ |
| 850/1बी | 0 | 05 | 0 | 0 | 12 |
| 850/2बी | 0 | 02 | 5 | 0 | 06 |
| 850/3बी | 0 | 02 | 5 | 0 | 06 |
| 852/1बी | 0 | 05 | 0 | 0 | 12 |
| 853/3बी | 0 | 06 | 0 | 0 | 15 |
| 872/6बी | 0 | 16 | 0 | 0 | 39 |
| 871/6सी | 0 | 03 | 5 | 0 | 09 |
| 871/5सी | 0 | 03 | 0 | 0 | 07 |
| 871/4पी | 0 | 05 | 0 | 0 | 13 |
| 871/11बी | 0 | 01 | 0 | 0 | 03 |
| 871/14बी | 0 | 09 | 0 | 0 | 22 |
| 877/1ए1 | 0 | 15 | 5 | 0 | 38 |
| 877/1ए2 | 0 | 06 | 0 | 0 | 15 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|--------------|----------|-----------|----------|----------|-------------|
| 877/1बीए | 0 | 03 | 0 | 0 | 08 |
| 878/3पी | 0 | 07 | 5 | 0 | 19 |
| 876/2 (जीपी) | 0 | 02 | 0 | 0 | 05 |
| 884/7ए | 0 | 07 | 5 | 0 | 19 |
| 855/2(जीपी) | 0 | 02 | 5 | 0 | 06 |
| TOTAL | 1 | 29 | 0 | 3 | 19 ½ |

[फा. सं. ओ.-12016/51/2006-ओ. एन. जी./डी. ओ.-III]

ओ. पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006

S.O. 4575.—whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 760 dated 23-02-2005 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipeline Lingala II to GCS II Lingala in the State of Andhra Pradesh, a pipeline should be laid by the ONGC—RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 27-07-2005.

And whereas no objections have been received from the public to the laying of the pipeline by the Competent Authority;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G. Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE
ROU PIPELINE FROM LINGALA II to GCS II
LINGALA

State : Andhra Pradesh Mandal : Mudanepalli

District : East Godavari Village : Perikigudem

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|--------------|----------|-----------|---------------|----------|-------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 831/2 | 0 | 08 | 0 | 0 | 20 |
| 835/1A | 0 | 04 | 0 | 0 | 10 |
| 835/1B | 0 | 06 | 0 | 0 | 15 |
| 835/1C | 0 | 04 | 0 | 0 | 10 |
| 835/6B | 0 | 02 | 0 | 0 | 05 |
| 836/6C | 0 | 02 | 5 | 9 | 05 ½ |
| 850/1B | 0 | 05 | 0 | 0 | 12 |
| 850/2B | 0 | 02 | 5 | 0 | 06 |
| 850/3B | 0 | 02 | 5 | 0 | 06 |
| 852/1B | 0 | 05 | 0 | 0 | 12 |
| 853/3B | 0 | 06 | 0 | 0 | 15 |
| 872/6B | 0 | 16 | 0 | 0 | 39 |
| 871/6C | 0 | 03 | 5 | 0 | 09 |
| 871/5C | 0 | 03 | 0 | 0 | 07 |
| 871/4P | 0 | 05 | 0 | 0 | 13 |
| 871/11B | 0 | 01 | 0 | 0 | 03 |
| 871/14B | 0 | 09 | 0 | 0 | 22 |
| 877/1A1 | 0 | 15 | 5 | 0 | 38 |
| 877/1A2 | 0 | 06 | 0 | 0 | 15 |
| 877/1BP | 0 | 03 | 0 | 0 | 08 |
| 878/3P | 0 | 07 | 5 | 0 | 19 |
| 876/2 (GP) | 0 | 02 | 0 | 0 | 05 |
| 884/7A | 0 | 07 | 5 | 0 | 19 |
| 855/2(GP) | 0 | 02 | 5 | 0 | 06 |
| TOTAL | 1 | 29 | 0 | 3 | 19 ½ |

[F. No. 12016/51/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4576.—केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना

सं. का.आ. 761 तारीख 23-02-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी. के. जी. बेसिन, राजामुद्रि एसट द्वारा आन्ध्र प्रदेश राज्य में अडा विपालेम-1 ई.पि.एस. से केसानापाळिळ (वे) जि.सि.एस. परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 27-07-2005 से उपलब्ध करा दी गई थीं;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देते हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरोहित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामुद्रि एसट में निहित होगा।

अनुसूची

आर.ओ.यू. पाइपलाइन : अडाविपालेम-1 ई.पि.एस. से केसानापाळिळ (वे) जि.सि.एस.

| | | | | | |
|---------------|----------------|--------|--------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडळ : | मलिकिपुराम | | |
| जिले : | पूर्व गोदावारी | गांव : | संकरागुपत्तम | | |
| आर. एस. नं | हेक्टेएस | एस | सेन्टेएस | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 609/पी(जीपी) | 0 | 01 | 0 | 0 | 03 |
| 610/पी(जी.पी) | 0 | 02 | 5 | 0 | 06 |
| 611/1बी | 0 | 09 | 5 | 0 | 24 |
| 611/1ए | 0 | 18 | 5 | 0 | 46 |

| | | | | | |
|---------|----|----|---|---|----|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 607/3एच | 0 | 06 | 0 | 0 | 15 |
| 607/3जी | 0 | 14 | 0 | 0 | 35 |
| 607/3ई | 0 | 04 | 5 | 0 | 11 |
| 607/3बी | 0 | 01 | 5 | 0 | 04 |
| 607/3एफ | 0 | 04 | 0 | 0 | 10 |
| 607/3सी | 0 | 06 | 0 | 0 | 15 |
| 607/3डी | 0 | 03 | 5 | 0 | 09 |
| 607/3ए | 0 | 04 | 5 | 0 | 11 |
| कुल योग | 01 | 76 | 5 | 1 | 89 |

| | | | |
|---------|----------------|--------|----------------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | मलिकिपुराम |
| जिले : | पूर्व गोदावारी | गांव : | केसानापल्लि-II |

| | | | | | |
|----------------|-----------|------|-----------|------|---------|
| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| Unsurveyed-1 | 0 | 15 | 0 | 0 | 37 |
| 588/पी | 0 | 53 | 5 | 1 | 32 |
| 587/पी | 0 | 22 | 0 | 0 | 54 |
| 596/1पी | 0 | 05 | 5 | 0 | 13 |
| 596/4पी | 0 | 33 | 0 | 0 | 82 |
| 597/3पी | 0 | 92 | 5 | 2 | 28 |
| 597/1पी | 0 | 26 | 5 | 0 | 66 |
| 598/पी | 2 | 27 | 5 | 5 | 62 |
| 599/1 | 2 | 26 | 0 | 5 | 59 |
| 600/पी | 1 | 48 | 0 | 3 | 66 |
| 579/पी | 0 | 20 | 0 | 0 | 49 |
| 414/2पी (जीपी) | 0 | 14 | 0 | 0 | 34 |
| 596/3पी (जीपी) | 0 | 02 | 0 | 0 | 05 |
| 597/4पी (जीपी) | 0 | 02 | 0 | 0 | 05 |
| 48/3पी (जीपी) | 0 | 02 | 5 | 0 | 06 |
| 48/1A | 0 | 04 | 5 | 0 | 11 |
| 48/1B | 0 | 05 | 5 | 0 | 13 |
| 44/1A | 0 | 10 | 5 | 0 | 26 |
| 25/4जे | 0 | 0 | 0 | 0 | 10 |
| 25/4एच | 0 | 02 | 5 | 0 | 06 |
| 25/7पी | 0 | 01 | 0 | 0 | 03 |
| 48/2डी | 0 | 02 | 5 | 0 | 06 |
| 48/1सी | 0 | 17 | 5 | 0 | 43 |
| 48/2ए | 0 | 01 | 5 | 0 | 04 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-------------|---|----|---|---|----|
| 48/1एफ | 0 | 58 | 0 | 1 | 43 |
| 48/24 | 0 | 14 | 5 | 0 | 36 |
| 25/4 | 0 | 07 | 0 | 0 | 17 |
| 25/4ई | 0 | 09 | 0 | 0 | 22 |
| 48/1डी | 0 | 12 | 0 | 0 | 30 |
| 48/2ई | 0 | 15 | 0 | 0 | 12 |
| 24/2 | 0 | 06 | 0 | 0 | 15 |
| 24/3पी | 0 | 02 | 0 | 0 | 05 |
| 48/1ई | 0 | 07 | 5 | 0 | 19 |
| 48/2एफ | 0 | 02 | 5 | 0 | 06 |
| 48/1एच | 0 | 15 | 0 | 0 | 37 |
| 48/2बी | 0 | 02 | 5 | 0 | 06 |
| 48/2सी | 0 | 02 | 5 | 0 | 06 |
| 48/2एच | 0 | 21 | 0 | 0 | 52 |
| 47/3 | 0 | 10 | 0 | 0 | 25 |
| 47/2 | 0 | 24 | 5 | 0 | 60 |
| 47/1 | 0 | 10 | 5 | 0 | 26 |
| 46/1डी | 0 | 13 | 5 | 0 | 33 |
| 46/1बी | 0 | 12 | 0 | 0 | 30 |
| 44/1सी | 0 | 16 | 0 | 0 | 40 |
| 46/1ए | 0 | 10 | 0 | 0 | 25 |
| 44/1बी | 0 | 01 | 0 | 0 | 03 |
| 25/4जी | 0 | 01 | 0 | 0 | 03 |
| 43/पी(जीपी) | 0 | 04 | 0 | 0 | 10 |
| 42/6पी | 0 | 01 | 0 | 0 | 03 |
| 42/5पी | 0 | 04 | 5 | 0 | 11 |
| 42/4पी | 0 | 05 | 5 | 0 | 13 |
| 42/1डी | 0 | 03 | 0 | 0 | 07 |
| 42/1सी | 0 | 04 | 5 | 0 | 11 |
| 42/2 | 0 | 05 | 5 | 0 | 14 |
| 42/1बी | 0 | 17 | 5 | 0 | 43 |
| 42/1ए | 0 | 03 | 0 | 0 | 07 |
| 25/4एफ | 0 | 02 | 0 | 0 | 05 |
| 25/4ए | 0 | 04 | 0 | 0 | 10 |
| 25/1ए | 0 | 07 | 5 | 0 | 18 |
| 25/4बी | 0 | 02 | 5 | 0 | 06 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|----------|----|----|---|----|----|
| 25/4डी | 0 | 03 | 0 | 0 | 08 |
| 25/4सी | 0 | 02 | 5 | 0 | 06 |
| 24/1पी | 0 | 04 | 5 | 0 | 11 |
| 24/2 | 0 | 06 | 0 | 0 | 15 |
| 24/3पी | 0 | 02 | 0 | 0 | 05 |
| 25/1बी | 0 | 02 | 0 | 0 | 05 |
| 23/4पी | 0 | 03 | 5 | 0 | 09 |
| 46/1सी | 0 | 07 | 5 | 0 | 19 |
| 48/1जी | 0 | 06 | 5 | 0 | 16 |
| कुल योग: | 13 | 04 | 0 | 32 | 23 |

| | | | | | |
|--------------|----------------|--------|----------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडल : | मळिकिपुराम | | |
| जिले : | पूर्व गोदावारि | गांव : | केसनापल्लि - 1 | | |
| आर. एस. नं | हेक्टेअर्स | एर्स | सेन्टेअर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 497/3ए | 0 | 09 | 0 | 0 | 22 |
| 497/3बी | 0 | 07 | 5 | 0 | 19 |
| 498/पी(जीपी) | 0 | 02 | 5 | 0 | 06 |
| 435/1डी1 | 0 | 11 | 5 | 0 | 29 |
| 435/1डी2 | 0 | 11 | 5 | 0 | 29 |
| 433/3ए | 0 | 07 | 5 | 0 | 18 |
| 433/3बी | 0 | 09 | 0 | 0 | 22 |
| 433/4ए | 0 | 25 | 0 | 0 | 62 |
| 432/पी | 0 | 30 | 0 | 0 | 74 |
| 429/1पी | 0 | 18 | 0 | 0 | 45 |
| 510/1पी | 0 | 14 | 0 | 0 | 34 |
| 510/2पी | 0 | 21 | 0 | 0 | 52 |
| 515/1ए1 | 0 | 12 | 0 | 0 | 30 |
| 515/1ए2 | 0 | 09 | 0 | 0 | 22 |
| 419/2पी | 0 | 20 | 5 | 0 | 51 |
| 419/3पी | 0 | 01 | 5 | 0 | 04 |
| 419/1 | 0 | 12 | 5 | 0 | 31 |
| 419/4 | 0 | 01 | 0 | 0 | 02 |
| 420/8 | 0 | 07 | 5 | 0 | 18 |
| 420/9 | 0 | 09 | 5 | 0 | 24 |
| 420/7 | 0 | 07 | 5 | 0 | 19 |
| 420/6 | 0 | 07 | 5 | 0 | 18 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|----------------|---|----|---|----|----|
| 420/4 | 0 | 10 | 5 | 0 | 26 |
| 420/5 | 0 | 06 | 5 | 0 | 16 |
| 413/3 | 0 | 05 | 5 | 0 | 13 |
| 420/3 | 0 | 09 | 5 | 0 | 23 |
| 420/2 | 0 | 08 | 5 | 0 | 21 |
| 420/1 | 0 | 07 | 5 | 0 | 18 |
| 413/6 | 0 | 17 | 5 | 0 | 43 |
| 413/5 | 0 | 07 | 0 | 0 | 17 |
| 413/4 | 0 | 09 | 5 | 0 | 23 |
| 413/2 | 0 | 06 | 0 | 0 | 15 |
| 413/1 | 0 | 11 | 5 | 0 | 28 |
| 414/3ए | 0 | 28 | 5 | 0 | 70 |
| 313/3बी | 0 | 02 | 0 | 0 | 05 |
| 414/पी | 0 | 20 | 0 | 0 | 49 |
| 411/p | 0 | 10 | 5 | 0 | 26 |
| unsurveyed /2 | 1 | 64 | 5 | 4 | 07 |
| 427/पी | 0 | 15 | 5 | 0 | 38 |
| 414/2पी (जीपी) | 0 | 14 | 0 | 0 | 34 |
| कुल योग : | 6 | 08 | 0 | 15 | 03 |

[फा. सं. -12016/47/2006-ओ. एन. जी./डी. ओ.-III]

ओ. पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006.

S.O. 4576.—whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No. 761 dated 23.02.2005 issued under Sub-Section (1) of Section 3 of the Petroleum and Minerals Pipe Lines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (herein after referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipe line ADAVIPALEM - I EPS to KESANAPALLI. (W) GCS in the State of Andhra Pradesh, a pipeline should be laid by the ONGC - RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 29.07.2005

And whereas no objections have been received from the public to laying of the pipeline by the Competent Authority;

And Whereas the Competent Authority has under Sub-Section (1) of Section 6 of the said Act, submitted report to the Central Government;

And Whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, therefore, in exercise of the powers conferred by Sub-Section (i) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipe line;

And Further in exercise of the powers conferred by Sub-Section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G. Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE**ROU PIPE LINE FROM ADAVIPALEM-I EPS TO KESANAPALLI (W) GCS**

| | | | | | |
|------------|----------------|-----------|---------------|-------|-------|
| State : | Andhra Pradesh | Mandal : | Malikipuram | | |
| District : | East Godavari | Village : | Sankaragupnam | | |
| R.S. No. | Hectares | Ares | Centi Arcs | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 609/P (GP) | 0 | 01 | 0 | 0 | 03 |
| 610/P(GP) | 0 | 02 | 5 | 0 | 06 |
| 611/IB | 0 | 09 | 5 | 0 | 24 |
| 611/1A | 0 | 18 | 5 | 0 | 46 |
| 607/3H | 0 | 06 | 0 | 0 | 15 |
| 607/3G | 0 | 14 | 0 | 0 | 35 |
| 607/3E | 0 | 04 | 5 | 0 | 11 |
| 607/3B | 0 | 01 | 5 | 0 | 04 |
| 607/3F | 0 | 04 | 0 | 0 | 10 |
| 607/3C | 0 | 06 | 0 | 0 | 15 |
| 607/3D | 0 | 03 | 5 | 0 | 09 |
| 607/3A | 0 | 04 | 5 | 0 | 11 |
| Total : | 0 | 76 | 5 | 1 | 89 |

| | | | | | |
|--------------|----------------|-----------|---------------------|-------|-------|
| State : | Andhra Pradesh | Mandal : | Malikipuram | | |
| District : | East Godavari | Village : | Kesanaplalli BIT-II | | |
| R.S.No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| Unsurveyed-I | 0 | 15 | 0 | 0 | 37 |
| 588/p | 0 | 53 | 5 | 1 | 32 |
| 587/p | 0 | 22 | 0 | 0 | 54 |
| 596/1p | 0 | 05 | 5 | 0 | 13 |
| 596/4p | 0 | 33 | 0 | 0 | 82 |
| 597/3p | 0 | 92 | 5 | 2 | 28 |
| 597/1p | 0 | 26 | 5 | 0 | 66 |

| 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 6 |
|-------------|---|----|---|---|----|--------|----|----|---|----|----|
| 598/p | 2 | 27 | 5 | 5 | 62 | 42/4P | 0 | 05 | 5 | 0 | 13 |
| 599/1 | 2 | 26 | 0 | 5 | 59 | 42/1D | 0 | 03 | 0 | 0 | 07 |
| 600/p | 1 | 48 | 0 | 3 | 66 | 42/1C | 0 | 04 | 5 | 0 | 11 |
| 579/p | 0 | 20 | 0 | 0 | 49 | 42/2 | 0 | 05 | 5 | 0 | 14 |
| 414/2P (GP) | 0 | 14 | 0 | 0 | 34 | 42/1B | 0 | 17 | 5 | 0 | 43 |
| 596/3P (GP) | 0 | 02 | 0 | 0 | 05 | 42/1A | 0 | 03 | 0 | 0 | 07 |
| 597/4P (GP) | 0 | 02 | 0 | 0 | 05 | 25/4F | 0 | 02 | 0 | 0 | 05 |
| 48/3P (GP) | 0 | 02 | 5 | 0 | 06 | 25/4A | 0 | 04 | 0 | 0 | 10 |
| 48/1A | 0 | 04 | 5 | 0 | 11 | 25/1A | 0 | 07 | 5 | 0 | 18 |
| 48/1B | 0 | 05 | 5 | 0 | 13 | 25/4B | 0 | 02 | 5 | 0 | 06 |
| 44/1A | 0 | 10 | 5 | 0 | 26 | 25/4D | 0 | 03 | 0 | 0 | 08 |
| 25/4J | 0 | 04 | 0 | 0 | 10 | 25/4C | 0 | 02 | 5 | 0 | 06 |
| 25/4H | 0 | 02 | 5 | 0 | 06 | 24/1P | 0 | 04 | 5 | 0 | 11 |
| 25/7P | 0 | 01 | 0 | 0 | 03 | 24/2 | 0 | 06 | 0 | 0 | 15 |
| 48/2D | 0 | 02 | 5 | 0 | 06 | 24/3p | 0 | 02 | 0 | 0 | 05 |
| 48/1C | 0 | 17 | 5 | 0 | 43 | 25/1B | 0 | 02 | 0 | 0 | 05 |
| 48/2A | 0 | 01 | 5 | 0 | 04 | 23/4P | 0 | 03 | 5 | 0 | 09 |
| 48/1F | 0 | 58 | 0 | 1 | 43 | 46/1C | 0 | 07 | 5 | 0 | 19 |
| 48/2G | 0 | 14 | 5 | 0 | 36 | 48/1G | 0 | 06 | 5 | 0 | 16 |
| 25/4 | 0 | 07 | 0 | 0 | 17 | Total: | 13 | 04 | 0 | 32 | 23 |
| 25/4E | 0 | 09 | 0 | 0 | 22 | | | | | | |
| 48/1D | 0 | 12 | 0 | 0 | 30 | | | | | | |
| 48/2E | 0 | 15 | 0 | 0 | 12 | | | | | | |
| 24/2 | 0 | 06 | 0 | 0 | 15 | | | | | | |
| 24/3P | 0 | 02 | 0 | 0 | 05 | | | | | | |
| 48/1E | 0 | 07 | 5 | 0 | 19 | | | | | | |
| 48/2F | 0 | 02 | 5 | 0 | 06 | | | | | | |
| 48/1H | 0 | 15 | 0 | 0 | 37 | | | | | | |
| 48/2B | 0 | 02 | 5 | 0 | 06 | | | | | | |
| 48/2C | 0 | 02 | 5 | 0 | 06 | | | | | | |
| 48/2H | 0 | 21 | 0 | 0 | 52 | | | | | | |
| 47/3 | 0 | 10 | 0 | 0 | 25 | | | | | | |
| 47/2 | 0 | 24 | 5 | 0 | 60 | | | | | | |
| 47/1 | 0 | 10 | 5 | 0 | 26 | | | | | | |
| 46/1D | 0 | 13 | 5 | 0 | 33 | | | | | | |
| 46/1B | 0 | 12 | 0 | 0 | 30 | | | | | | |
| 44/1C | 0 | 16 | 0 | 0 | 40 | | | | | | |
| 46/1A | 0 | 10 | 0 | 0 | 25 | | | | | | |
| 44/1B | 0 | 01 | 0 | 0 | 03 | | | | | | |
| 25/4G | 0 | 01 | 0 | 0 | 03 | | | | | | |
| 43/P(GP) | 0 | 04 | 0 | 0 | 10 | | | | | | |
| 42/6P | 0 | 01 | 0 | 0 | 03 | | | | | | |
| 42/5P | 0 | 04 | 5 | 0 | 11 | | | | | | |

| | | | | | |
|------------|----------------|-----------|-------------------|-------|-------|
| State : | Andhra Pradesh | Mandal : | Malikipuram | | |
| District : | East Godavari | Village : | Kesanapalli-BIT-1 | | |
| R.S.No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 497/3A | 0 | 09 | 0 | 0 | 22 |
| 497/3B | 0 | 07 | 5 | 0 | 19 |
| 498/P (GP) | 0 | 02 | 5 | 0 | 06 |
| 435/1D1 | 0 | 11 | 5 | 0 | 29 |
| 435/1D2 | 0 | 11 | 5 | 0 | 29 |
| 433/3A | 0 | 07 | 5 | 0 | 18 |
| 433/3B | 0 | 09 | 0 | 0 | 22 |
| 433/4A | 0 | 25 | 0 | 0 | 62 |
| 432/P | 0 | 30 | 0 | 0 | 74 |
| 429/1P | 0 | 18 | 0 | 0 | 45 |
| 510/1P | 0 | 14 | 0 | 0 | 34 |
| 510/2P | 0 | 21 | 0 | 0 | 52 |
| 515/1A1 | 0 | 12 | 0 | 0 | 30 |
| 515/1A2 | 0 | 09 | 0 | 0 | 22 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------------|---|----|---|----|----|
| 419/2P | 0 | 20 | 5 | 0 | 51 |
| 419/3P | 0 | 01 | 5 | 0 | 04 |
| 419/1 | 0 | 12 | 5 | 0 | 31 |
| 419/4 | 0 | 01 | 0 | 0 | 02 |
| 420/8 | 0 | 07 | 5 | 0 | 18 |
| 420/9 | 0 | 09 | 5 | 0 | 24 |
| 420/7 | 0 | 07 | 5 | 0 | 19 |
| 420/6 | 0 | 07 | 5 | 0 | 18 |
| 420/4 | 0 | 10 | 5 | 0 | 26 |
| 420/5 | 0 | 0 | 5 | 0 | 16 |
| 413/3 | 0 | 06 | 5 | 0 | 13 |
| 420/3 | 0 | 09 | 5 | 0 | 23 |
| 420/2 | 0 | 08 | 5 | 0 | 21 |
| 420/1 | 0 | 07 | 5 | 0 | 18 |
| 413/6 | 0 | 17 | 5 | 0 | 43 |
| 413/5 | 0 | 07 | 0 | 0 | 17 |
| 413/4 | 0 | 09 | 5 | 0 | 23 |
| 413/2 | 0 | 06 | 0 | 0 | 15 |
| 413/1 | 0 | 11 | 5 | 0 | 28 |
| 414/3A | 0 | 28 | 5 | 0 | 70 |
| 313/3B | 0 | 02 | 0 | 0 | 05 |
| 414/P | 0 | 20 | 0 | 0 | 49 |
| 411/P | 0 | 10 | 5 | 0 | 26 |
| unsurveyed /2 | 1 | 64 | 5 | 4 | 07 |
| 427/p | 0 | 15 | 5 | 0 | 38 |
| 414/2P (GP) | 0 | 14 | 0 | 0 | 34 |
| Total: | 6 | 08 | 0 | 15 | 03 |

[F. No. 12016/47/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4577.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि आन्ध्र प्रदेश राज्य में आर. ओ. यु. पाइप लाईन मंडापेटा वेस्ट 3 से मंडापेटा वेस्ट 1 ई.पी.एस. तक पेट्रोलियम के लिए पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों के बिछाने के प्रयोजन के लिए एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय

सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप, सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, राजामन्दि एस्टेट, के. जी. बेसिन, ओ.एन.जी.सी. गोदावरी भवन, राजामन्दि, आन्ध्र प्रदेश अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

आर.ओ.यू. पाइप लाईन : मंडापेटा वेस्ट-3 से मंडापेटा वेस्ट-1 ई. पी. एस.

| | | | | | |
|------------|---------------|----------|--------------|---|-----|
| राज्य : | आन्ध्र प्रदेश | मंडल : | रावुलापालेम | | |
| जिला : | पूर्व गोदावरी | गांव : | देवारापाल्ली | | |
| आर.एस. नं. | हेक्टेएस/एस | सेन्टेएस | एकड/सेन्ट्स | | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 162/2 | 0 | 02 | 0 | 0 | 05 |
| 160/5बी | 0 | 09 | 0 | 0 | 22 |
| 160/6बी | 0 | 01 | 0 | 0 | 03 |
| 160/6बी | 0 | 03 | 5 | 0 | 09 |
| 160/7बी | 0 | 01 | 5 | 0 | 04 |
| 159/2 | 0 | 01 | 0 | 0 | 03 |
| 131/3बी | 0 | 04 | 5 | 0 | 11 |
| 131/6ए | 0 | 02 | 5 | 0 | 06½ |
| 131/1पी | 0 | 03 | 0 | 0 | 08 |
| 131/2बी | 0 | 04 | 0 | 0 | 10 |
| 134/5बी | 0 | 04 | 5 | 0 | 11 |
| 132/1बी | 0 | 03 | 0 | 0 | 08 |
| 132/1सी | 0 | 03 | 0 | 0 | 07 |
| 132/2बी | 0 | 03 | 0 | 0 | 08 |
| 132/4बी | 0 | 02 | 5 | 0 | 6 ½ |
| 133/2 | 0 | 01 | 5 | 0 | 04 |
| 134/6डी | 0 | 02 | 5 | 0 | 06 |
| 134/6सी | 0 | 02 | 5 | 0 | 06 |
| 134/8बी | 0 | 02 | 0 | 0 | 05 |
| 134/6बी | 0 | 02 | 5 | 0 | 06 |
| 134/3बी | 0 | 06 | 0 | 0 | 15 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------------|----------|-----------|----------|----------|-----------|
| 135/2 | 0 | 01 | 0 | 0 | 03 |
| 135/3 | 0 | 01 | 5 | 0 | 04 |
| 111/2बी | 0 | 05 | 5 | 0 | 13 |
| 111/3बी | 0 | 07 | 5 | 0 | 18 |
| 111/4बी | 0 | 10 | 5 | 0 | 26 |
| 111/2बी2 | 0 | 01 | 0 | 0 | 03 |
| 112/2 | 0 | 17 | 0 | 0 | 42 |
| 93/2बी | 0 | 07 | 5 | 0 | 19 |
| 93/5बीपी | 0 | 03 | 5 | 0 | 09 |
| 93/5सी | 0 | 02 | 0 | 0 | 05 |
| जोड़ : | 1 | 27 | 5 | 3 | 15 |

[सं. 12016/56/2006-ओ.एन.जी./डी.ओ.-III]

ओ.पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006

S.O. 4577.—Whereas it appears to the Central Government that is necessary in the public interest that for the transport of petroleum from "MANDAPETA WEST-3 TO MANDAPETA WEST-1 EPS" in the A.P. State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto :—

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd., Rajahmundry Asset/ K.G. Basin, Godavari Bhavan, Base Complex, Rajahmundry, Andhra Pradesh.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

SCHEDULE

ROU PIPELINE FROM MDW-3 TO MDW-1

State : Andhra Pradesh Mandal : Ravulapalem
District : East Godavari Village : Devarapalli

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------------|----------|-----------|---------------|----------|-----------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 162/2 | 0 | 02 | 0 | 0 | 05 |
| 160/5B | 0 | 09 | 0 | 0 | 22 |
| 160/6B | 0 | 01 | 0 | 0 | 03 |
| 160/6B | 0 | 03 | 5 | 0 | 09 |
| 160/7B | 0 | 01 | 5 | 0 | 04 |
| 159/2 | 0 | 01 | 0 | 0 | 03 |
| 131/3B | 0 | 04 | 5 | 0 | 11 |
| 131/6A | 0 | 02 | 5 | 0 | 06½ |
| 131/1P | 0 | 03 | 0 | 0 | 08 |
| 131/2B | 0 | 04 | 0 | 0 | 10 |
| 134/5B | 0 | 04 | 5 | 0 | 11 |
| 132/1B | 0 | 03 | 0 | 0 | 03 |
| 132/1C | 0 | 03 | 0 | 0 | 07 |
| 132/2B | 0 | 03 | 0 | 0 | 03 |
| 132/4B | 0 | 02 | 5 | 0 | 06½ |
| 133/2 | 0 | 01 | 5 | 0 | 04 |
| 134/6D | 0 | 02 | 5 | 0 | 06 |
| 134/6C | 0 | 02 | 5 | 0 | 06 |
| 134/8B | 0 | 02 | 0 | 0 | 05 |
| 134/6B | 0 | 02 | 5 | 0 | 06 |
| 134/3B | 0 | 06 | 0 | 0 | 15 |
| 135/2 | 0 | 01 | 0 | 0 | 03 |
| 135/3 | 0 | 01 | 5 | 0 | 04 |
| 111/2B | 0 | 05 | 5 | 0 | 13 |
| 111/3B | 0 | 07 | 5 | 0 | 18 |
| 111/4B | 0 | 10 | 5 | 0 | 26 |
| 111/2B2 | 0 | 01 | 0 | 0 | 03 |
| 112/2 | 0 | 17 | 0 | 0 | 42 |
| 93/2B | 0 | 07 | 5 | 0 | 19 |
| 93/5B P | 0 | 03 | 5 | 0 | 09 |
| 93/5 C | 0 | 02 | 0 | 0 | 05 |
| TOTAL : | 1 | 27 | 5 | 3 | 15 |

[No. 12016/56/2006-ONG/DO-III]

O. P. BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4578.—केन्द्रीय सरकार को पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें 4-11 के पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी, भारत

सरकार के पेट्रोलियम और प्रकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 762 तारीख 23-02-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में ओ.एन.जी.सी., के. जी. बेसिन, राजामुंद्रि एसट द्वारा आन्ध्र प्रदेश राज्य में के. के. ऐ. जी. (के. के. एल-17) से के. के. एल-12 परियोजना तक माध्यम से गैस के परिवहन के लिये पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 14-07-2005 से उपलब्ध करा दी गई थीं;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निदेश देती हैं कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय, पाइपलाइन बिछाने का प्रस्ताव करने वाली ओ.एन.जी.सी. में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग के अधिकार, इस प्रकार अधिरोहित निर्बंधनों और शर्तों के अधीन रहते हुए, सभी विल्लिंगों से मुक्त ओ.एन.जी.सी., के.जी. बेसिन, राजामुंद्रि एसट में निहित होगा।

अनुसूची

आर.ओ.यू. पाइपलाइन : के. के. ऐ. जी. (के. के. एल-17) से के. के. एल-12

| राज्य : | आन्ध्र प्रदेश | मंडल : | कैकालुरू | | |
|------------|----------------|--------|-----------|------|---------|
| जिला : | पूर्व गोदावारी | गांव : | राचापाटनम | | |
| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 157/2ए | 0 | 01 | 0 | 0 | 03 |
| 157/2बी | 0 | 01 | 0 | 0 | 03 |
| 156/4पी | 0 | 08 | 0 | 0 | 20 |
| 156/6ए | 0 | 03 | 0 | 0 | 08 |
| 156/6बी | 0 | 03 | 0 | 0 | 07 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------|---|----|---|---|----|
| 296/2सी | 0 | 04 | 5 | 0 | 11 |
| 293/पीटी | 0 | 15 | 5 | 0 | 38 |
| 263/पीटी | 0 | 28 | 5 | 0 | 70 |
| कुल योग : | 0 | 64 | 5 | 1 | 60 |

| राज्य : | आन्ध्र प्रदेश | मंडल : | कैकालुरू | | |
|------------|----------------|--------|------------|------|---------|
| जिला : | पूर्व गोदावारी | गांव : | काललापालेम | | |
| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 19/1 | 0 | 01 | 0 | 0 | 02 |
| कुल योग : | 0 | 01 | 0 | 0 | 02 |

[फा. सं. 12016/58/2006-ओ.एन.जी./डी.ओ.-III]

ओ.पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006

S.O. 4578 .—Whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No. 762 dated 23-02-2005 issued under Sub-Section (1) of Section 3 of the Petroleum and Minerals Pipe Lines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (herein after referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that Notification for the purpose of laying pipe line KKAG (KKL-17) to KAIKALURU - 12 in the State of Andhra Pradesh, a pipeline should be laid by the ONGC - RJY;

And whereas copies of the said Gazette Notifications were made available to the public from 14-07-05

And whereas no objections have been received from the public to laying of the pipeline by the Competent Authority;

And whereas the Competent Authority has under Sub-Section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule.

Now, therefore, in exercise of the powers conferred by Sub-Section (i) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedules appended to this Notification is hereby acquired for laying the pipeline;

And Further in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of this declaration, in the ONGC, K.G.Project/Rajahmundry Asset, free from encumbrances.

SCHEDULE**ROU PIPE LINE FROM K K A G (KKIL17) TO
KAIKALUR-12**

| State : | Andhra Pradesh | Mandal : | Kaikahuru | | |
|------------|----------------|-----------|---------------|-------|-------|
| District : | Krishana | Village : | Rachapatnam | | |
| R.S.No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 157/2A | 0 | 01 | 0 | 0 | 03 |
| 157/2B | 0 | 01 | 0 | 0 | 03 |
| 156/4P | 0 | 08 | 0 | 0 | 20 |
| 156/6A | 0 | 03 | 0 | 0 | 08 |
| 156/6B | 0 | 03 | 0 | 0 | 07 |
| 296/2C | 0 | 04 | 5 | 0 | 11 |
| 293/pt | 0 | 15 | 5 | 0 | 38 |
| 263/pt | 0 | 28 | 5 | 0 | 70 |
| TOTAL : | 0 | 64 | 5 | 1 | 60 |

| State : | Andhra Pradesh | Mandal : | Kaikaluru | | |
|------------|----------------|-----------|---------------|-------|-------|
| District : | Krishana | Village : | Kallapalem | | |
| R.S.No. | Hectares | Ares | Centi Ares | Acres | Cents |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 19/1 | 0 | 01 | 0 | 0 | 02 |
| TOTAL : | 0 | 01 | 0 | 0 | 02 |

[F.No. 12016/58/2006-ONG/DO-III]

O.P.BANWARI, Under Secy.

नई दिल्ली, 22 नवम्बर, 2006

का.आ. 4579.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि आन्ध्र प्रदेश राज्य में आर.ओ.यू. पाइपलाइन ई.एम.ऐ.सि-9 से ई.एम.ऐ.ई-7 तक पेट्रोलियम के लिये पाइपलाइन तैम तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों के बिछाने के प्रयोजन के लिये एतद्पाबद अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का आर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्त कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग लि. और देखभाल प्रभाग राजामन्दि एस्टेट के. जी. बेसिन. ओ. एन. जी.सी. गोदावरी भवन, राजामन्दि, आन्ध्र प्रदेश की अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से या किसी विधि व्यवसायी की मार्फत।

अनुसूची

आर.ओ.यू. पाइपलाइन : ई.एम.ऐ.सि-9 से ई.एम.ऐ.ई-7

| राज्य : | आन्ध्र प्रदेश | मंडल : | कारापा | | |
|------------|---------------|--------|---------------|------|---------|
| जिले : | पूर्व गोदावरी | गांव : | गुराजानापल्लि | | |
| आर. एस. नं | हेक्टेअर्स | एअर्स | सेन्टेअर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 117 | 0 | 12 | 0 | 0 | 30 |
| 116/2पी | 0 | 08 | 5 | 0 | 21 |
| 116/1पी | 0 | 10 | 0 | 0 | 25 |
| 107/पी | 0 | 35 | 5 | 0 | 88 |
| 109/1 | 0 | 12 | 5 | 0 | 31 |
| 109/2 | 0 | 02 | 5 | 0 | 06 |
| 109/3 | 0 | 02 | 5 | 0 | 06 |
| 108/पी | 0 | 08 | 0 | 0 | 20 |
| 110/ए | 0 | 01 | 0 | 0 | 03 |
| 110/1बी | 0 | 01 | 0 | 0 | 03 |
| 110/1सी | 0 | 02 | 0 | 0 | 05 |
| कुल योग : | 0 | 96 | 5 | 2 | 38 |

| राज्य : | आन्ध्र प्रदेश | मंडल : | कारापा | | |
|------------|---------------|--------|------------|------|---------|
| जिले : | पूर्व गोदावरी | गांव : | गोरीपुडो | | |
| आर. एस. नं | हेक्टेअर्स | एअर्स | सेन्टेअर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 14/पी | 0 | 19 | 0 | 0 | 47 |
| 13/पी | 0 | 02 | 5 | 0 | 06 |
| 12/1. | 0 | 05 | 0 | 0 | 12 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-----------|---|----|---|---|----|
| 12/2. | 0 | 01 | 0 | 0 | 02 |
| 16/2. | 0 | 02 | 0 | 0 | 05 |
| 12/3. | 0 | 00 | 5 | 0 | 01 |
| 12/4. | 0 | 01 | 0 | 0 | 03 |
| 15/2पी | 0 | 19 | 5 | 0 | 48 |
| 16/1 | 0 | 03 | 0 | 0 | 07 |
| 17/पी | 0 | 03 | 5 | 0 | 09 |
| 39/पी | 0 | 33 | 0 | 0 | 82 |
| 40/2बी | 0 | 01 | 0 | 0 | 03 |
| 40/2ए | 0 | 01 | 0 | 0 | 03 |
| 46/5बी | 0 | 09 | 5 | 0 | 23 |
| 46/5ए | 0 | 04 | 5 | 0 | 11 |
| 47/पी | 0 | 00 | 5 | 0 | 01 |
| 54/3डी | 0 | 09 | 5 | 0 | 23 |
| 54/3सी | 0 | 01 | 5 | 0 | 04 |
| 54/3बी | 0 | 02 | 5 | 0 | 06 |
| 54/3ए | 0 | 02 | 5 | 0 | 06 |
| 55/पी | 0 | 01 | 0 | 0 | 02 |
| 68/2बी | 0 | 03 | 0 | 0 | 07 |
| 68/2ए | 0 | 03 | 0 | 0 | 07 |
| 69/पी | 0 | 00 | 5 | 0 | 01 |
| 72/3सी | 0 | 07 | 0 | 0 | 17 |
| 72/3बी | 0 | 01 | 0 | 0 | 03 |
| 72/3ए | 0 | 03 | 0 | 0 | 08 |
| 71/पी | 0 | 00 | 5 | 0 | 01 |
| 73/9 | 0 | 19 | 0 | 0 | 47 |
| कुल योग : | 1 | 60 | 0 | 3 | 95 |

| | | | | | |
|---------------|----------------|--------|------------|------|---------|
| राज्य : | आन्ध्र प्रदेश | मंडळ : | कारापा | | |
| जिल्हे : | पूर्व गोदावारी | गांव : | पातारलागडा | | |
| आर. एस. नं | हेक्टेर्स | एर्स | सेन्टेर्स | एकड़ | सेन्ट्स |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 112/2बी | 0 | 00 | 5 | 0 | 01½ |
| 112/2ए | 0 | 01 | 0 | 0 | 03 |
| 113/11पी | 0 | 01 | 0 | 0 | 03 |
| 113/13पी | 0 | 02 | 5 | 0 | 06 |
| 114/पी(Canal) | 0 | 05 | 5 | 0 | 14 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|-------------------|---|----|---|---|------|
| 116/पी (Canal) | 0 | 03 | 5 | 0 | 09 |
| 117/पी (R&B road) | 0 | 03 | 5 | 0 | 09 |
| 118/पी (R&B road) | 0 | 11 | 5 | 0 | 28 |
| 82/2ए | 0 | 00 | 5 | 0 | 01 ½ |
| 82/2बी | 0 | 15 | 0 | 0 | 37 |
| 76/2ए | 0 | 05 | 0 | 0 | 12 |
| 78/3ए | 0 | 01 | 5 | 0 | 04 |
| 78/1एपी | 0 | 05 | 5 | 0 | 13 |
| 66/पी | 0 | 00 | 5 | 0 | 00 ½ |
| 65/5पी | 0 | 01 | 0 | 0 | 02 |
| 68/पी | 0 | 03 | 0 | 0 | 08 |
| 60/पी | 0 | 06 | 0 | 0 | 15 |
| 77/पी | 0 | 01 | 0 | 0 | 02 |
| 70/पी | 0 | 01 | 5 | 0 | 04 |
| 67/पी | 0 | 01 | 0 | 0 | 02 |
| कुल योग : | 0 | 70 | 5 | 1 | 74 ½ |

[सं. 12016/53/2006-ओ.एन.जी./डी.ओ.-III]

ओ.पी. बनवारी, अवर सचिव

New Delhi, the 22nd November, 2006.

S.O. 4579.—Whereas it appears to the Central Government that is necessary in the public interest that for the transport of petroleum from “EMAC-9 TO EMAE-7” in the A.P. state pipeline should be laid by the OIL & NATURAL GAS CORPORATION LTD.

AND WHEREAS it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed here to:—

NOW THEREFORE, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

PROVIDED THAT ANY person interested in the said land may object within 21 days from the date of this notification, to laying the pipe line under the land to the Competent Authority Oil & Natural Gas Corporation Ltd, Rajahmundry Asset/ K.G., Basin, Godavari Bhavan, Base complex, Rajahmundry, Andhra Pradesh.

AND every person making such any objections shall also state specifically whether he wished to be heard in person or by legal practitioner.

SCHEDULE**ROU PIPE LINE FROM EMAC 9 TO EMAC 7**

State : Andhra Pradesh Mandal : Karapa

District : East Godavari Village : Gurajanapalli

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------------|----------|-----------|---------------|----------|-----------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 117 | 0 | 12 | 0 | 0 | 30 |
| 116/2P | 0 | 08 | 5 | 0 | 21 |
| 116/1P | 0 | 10 | 0 | 0 | 25 |
| 107/P | 0 | 35 | 5 | 0 | 88 |
| 109/1 | 0 | 12 | 5 | 0 | 31 |
| 109/2 | 0 | 02 | 5 | 0 | 06 |
| 109/3 | 0 | 02 | 5 | 0 | 06 |
| 108/P | 0 | 08 | 0 | 0 | 20 |
| 110/1A | 0 | 01 | 0 | 0 | 03 |
| 110/1B | 0 | 01 | 0 | 0 | 03 |
| 110/1C | 0 | 02 | 0 | 0 | 05 |
| TOTAL : | 0 | 96 | 5 | 2 | 38 |

State : Andhra Pradesh Mandal : Karapa

District : East Godavari Village : Gorripudi

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|----------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 14/P | 0 | 19 | 0 | 0 | 47 |
| 13/P | 0 | 02 | 5 | 0 | 06 |
| 12/1. | 0 | 05 | 0 | 0 | 12 |
| 12/2. | 0 | 01 | 0 | 0 | 02 |
| 16/2. | 0 | 02 | 0 | 0 | 05 |
| 12/3. | 0 | 00 | 5 | 0 | 01 |
| 12/4. | 0 | 01 | 0 | 0 | 03 |
| 15/2P | 0 | 19 | 5 | 0 | 48 |
| 16/1 | 0 | 03 | 0 | 0 | 07 |
| 17/P | 0 | 03 | 5 | 0 | 09 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|----------------|----------|-----------|----------|----------|-----------|
| 39/P | 0 | 33 | 0 | 0 | 82 |
| 40/2B | 0 | 01 | 0 | 0 | 03 |
| 40/2A | 0 | 01 | 0 | 0 | 03 |
| 46/5B | 0 | 09 | 5 | 0 | 23 |
| 46/5A | 0 | 04 | 5 | 0 | 11 |
| 47/P | 0 | 00 | 5 | 0 | 01 |
| 54/3D | 0 | 09 | 5 | 0 | 23 |
| 54/3C | 0 | 01 | 5 | 0 | 04 |
| 54/3B | 0 | 02 | 5 | 0 | 06 |
| 54/3A | 0 | 02 | 5 | 0 | 06 |
| 55/P | 0 | 01 | 0 | 0 | 02 |
| 68/2B | 0 | 03 | 0 | 0 | 07 |
| 68/2A | 0 | 03 | 0 | 0 | 07 |
| 69/P | 0 | 00 | 5 | 0 | 01 |
| 72/3C | 0 | 07 | 0 | 0 | 17 |
| 72/3B | 0 | 01 | 0 | 0 | 03 |
| 72/3A | 0 | 03 | 0 | 0 | 08 |
| 71/P | 0 | 00 | 5 | 0 | 01 |
| 73/P | 0 | 19 | 0 | 0 | 47 |
| TOTAL : | 1 | 60 | 0 | 3 | 95 |

State : Andhra Pradesh Mandal : Karapa

District : East Godavari Village : Patharlagadda

| R.S. No. | Hectares | Ares | Centi Ares | Acres | Cents |
|------------------|----------|------|---------------|-------|-------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 112/2B | 0 | 00 | 5 | 0 | 01 ½ |
| 112/2A | 0 | 01 | 0 | 0 | 03 |
| 113/11P | 0 | 01 | 0 | 0 | 03 |
| 113/13P | 0 | 02 | 5 | 0 | 06 |
| 114/P (Canal) | 0 | 05 | 5 | 0 | 14 |
| 116/P (Canal) | 0 | 03 | 5 | 0 | 09 |
| 117/P (R&B road) | 0 | 03 | 5 | 0 | 09 |
| 118/P (R&B road) | 0 | 11 | 5 | 0 | 28 |
| 82/2A | 0 | 00 | 5 | 0 | 01 ½ |
| 82/2B | 0 | 15 | 0 | 0 | 37 |
| 76/2A | 0 | 05 | 0 | 0 | 12 |
| 78/3A | 0 | 01 | 5 | 0 | 04 |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---------------|----------|-----------|----------|----------|------------|
| 78/1AP | 0 | 05 | 5 | 0 | 13 |
| 66/P | 0 | 00 | 5 | 0 | 00½ |
| 65/5P | 0 | 01 | 0 | 0 | 02 |
| 68/P | 0 | 03 | 0 | 0 | 08 |
| 60/P | 0 | 06 | 0 | 0 | 15 |
| 77/P | 0 | 01 | 0 | 0 | 02 |
| 70/P | 0 | 01 | 5 | 0 | 04 |
| 67/P | 0 | 01 | 0 | 0 | 02 |
| TOTAL: | 0 | 70 | 5 | 1 | 74½ |

[No. 12016/53/2006-ONG/DO-III]

O.P. BANWARI, Under Secy.

नई दिल्ली, 23 नवम्बर, 2006

का.आ. 4580.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (अ) के अनुसरण में, नीचे दी गई अनुसूची के स्तम्भ 1 में उल्लिखित व्यक्ति को, उक्त अनुसूची के स्तम्भ 2 में की तत्स्थानी प्रविष्टि में उल्लिखित क्षेत्र के संबंध में उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का निर्वहन करने के लिए प्राधिकृत करती है, अर्थात् :-

अनुसूची

| प्राधिकारी का नाम और पता | अधिकारिता का क्षेत्र |
|---|----------------------|
| (1) | (2) |
| श्री आर. आर. जन्तू भूमि अर्जन अधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में प्रतिनियुक्ति पर सक्षम प्राधिकारी, फ्लैट नं. 101, एस.के. तुलप अपार्टमेंट, 9वीं बी मेन, बीएसएनएल मैनेजर आफिस के पीछे, चेअरमैन लेआउट, बानासवाडी, बंगलोर-560043. | कर्नाटक राज्य |

[सं.-आर-25011/12/2006-ओआर-I]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 23rd November, 2006

S.O. 4580.—In pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorises the person mentioned in column (1) of the Schedule given below to perform the functions of the Competent Authority under the said Act, in respect of the area mentioned in column (2) of the said Schedule :—

SCHEDULE

| Name and address of the Authority | Area of jurisdiction |
|---|----------------------|
| (1) | (2) |
| Shri R. R. Jannu Land Acquisition Officer, Competent Authority on deputation to Indian Oil Corporation Limited, Flat No. 101, S.K. Tulip Apartment, 9th B Main, Beside BSNL Manager Office, Chairman Layout, Banaswadi, Bangalore - 560 043. | State of Karnataka |

[No. R-25011/12/2006-OR-I]

S. K. CHITKARA, Under Secy.

नई दिल्ली, 29 नवम्बर, 2006

का.आ. 4581.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1966, तारीख 17 मई, 2006 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैसर्स रिलायंस इंडस्ट्रीज लिमिटेड, के गोवा में उत्तरी/दक्षिणी अपतट में खोज ब्लॉकों और आन्ध्र प्रदेश में संरचनाओं से आन्ध्र प्रदेश राज्य में मेदक जिले के विभिन्न उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिये, एक रिलायंस समूह कम्पनी, मैसर्स रिलायंस गैस ट्रांसपोर्टेशन इंफ्रास्ट्रक्चर लिमिटेड, पूर्ववत् मैसर्स रिलायंस गैस पाइपलाइन्स लिमिटेड, द्वारा पाइपलाइन बिछाने के प्रयोजन के लिये उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 14 अगस्त, 2006 को उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के संबंध में, जनता की ओर से कोई आक्षेप प्राप्त नहीं हुआ है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगों से मुक्त, मैसर्स रिलायंस गैस ट्रांसपोर्टेशन इन्फ्रास्ट्रक्चर लिमिटेड में निहित होगा।

अनुसूची

| गांव का नाम | सर्वे नंबर | सब-डिविजन नंबर | आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल हेक्टर | एर | सि एर |
|-------------|------------|----------------|--|----|-------|
|-------------|------------|----------------|--|----|-------|

मंडल : जिन्नारम जिला : मेदक राज्य : आन्ध्र प्रदेश

| | | | | | |
|----------------|-----|---|---|----|----|
| 1. कोरलाकुन्टा | 29 | - | 0 | 21 | 10 |
| 2. नल्लूरु, | 231 | 2 | 0 | 28 | 85 |
| | 231 | 3 | 0 | 22 | 05 |
| | 243 | - | 0 | 55 | 55 |
| 3. माधवरमु | 37 | - | 0 | 14 | 90 |

मंडल : पटानचेरुवु जिला : मेदक राज्य : आन्ध्र प्रदेश

| | | | | | |
|---------|----|---|---|----|----|
| 1. ऐनोल | 38 | - | 0 | 20 | 70 |
| | 39 | - | 3 | 54 | 65 |
| | 86 | - | 0 | 43 | 10 |

मंडल : कोण्डापुर जिला : मेदक राज्य : आन्ध्र प्रदेश

| | | | | | |
|---------------|----|---|---|----|----|
| 1. तोगारपल्ली | 56 | - | 0 | 06 | 10 |
| 2. गारकुर्ति | 58 | - | 0 | 75 | 70 |
| | 66 | - | 0 | 68 | 55 |
| | 73 | - | 0 | 35 | 30 |

[फा. सं.-एल-14014/2/2002-जीपी]

एस. बी. मण्डल अवर सचिव

New Delhi, the 29th November, 2006

S.O. 4581.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas Number S. O. 1966 dated the 17th May, 2006, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification, for the purpose of laying pipeline for transportation of natural gas from the exploration blocks in the Northern/Southern offshore of Goa and structures in Andhra Pradesh of M/s. Reliance Industries Limited by a Reliance Group Company, M/s. Reliance Gas Transportation Infrastructure Limited formerly known as M/s. Reliance Gas Pipelines Limited, to

various consumers of District Medak in the State of Andhra Pradesh;

And whereas the copies of the said Gazette notification were made available to the public on 14th August, 2006;

And whereas no objections were received from the public to the laying of the pipeline;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of said Act, submitted its report to Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in M/s. Reliance Gas Transportation Infrastructure Limited, free from the encumbrances.

SCHEDULE

| Village | Survey No. | Sub-Division No. | Area to be acquired for ROU Hectare | Are | C-Are |
|---|------------|------------------|-------------------------------------|-----|-------|
| Mandal : Jinnaram District : Medak State : Andhra Pradesh | | | | | |
| 1. Korlakunta | 29 | - | 0 | 21 | 10 |
| 2. Nalloor | 231 | 2 | 0 | 28 | 85 |
| | 231 | 3 | 0 | 22 | 05 |
| | 243 | - | 0 | 55 | 55 |
| 3. Madhavaram | 37 | - | 0 | 14 | 90 |
| Mandal : Patancheru District : Medak State : Andhra Pradesh | | | | | |
| 1. Inole | 38 | - | 0 | 20 | 70 |
| | 39 | - | 3 | 54 | 65 |
| | 86 | - | 0 | 43 | 10 |
| Mandal : Kondapur District : Medak State : Andhra Pradesh | | | | | |
| 1. Thogarpalli | 56 | - | 0 | 06 | 10 |
| 2. Garakurthi | 58 | - | 0 | 75 | 70 |
| | 66 | - | 0 | 68 | 55 |
| | 73 | - | 0 | 35 | 30 |

[F. No. L-14014/2/2002-CP]

S. B. MANDAL, Under Secy.

श्रम एवं रोज़गार मंत्रालय

नई दिल्ली, 6 नवम्बर, 2006

क्र.आ 4582.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. एस. राजा ग्रेनाइट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, अरनाकुलम, कोची के पंचाट (संदर्भ संख्या 14 ऑफ 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-29011/59/2005-आई आर(एम)]

सुरेंद्र सिंह, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 6th November, 2006

S.O. 4582.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14 of 2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, Kochi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Raja Granite and their workman, which was received by the Central Government on 6-11-2006.

[No. L-29011/59/2005-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, ERNAKULAM****PRESENT : SHRI P. L. NORBERT, B.A., LL.B.,****Presiding Officer****(Monday the 16th day of October, 2006/****24th Asvina, 1928)****I. D. 14/2006**

Workman : V.V. Shanmugham
S/o Velayudhan, Valiyaveettil House,
Vengola P.O. Perumbavoor
Ernakulam.

Adv. Shri Alexander Joseph

Management : E.V. Rajan
Proprietor
M/s Raja Granite, Quarry Vengola
P.O., Perumbavoor Ernakulam.

Adv. Shri Mathew Abraham

AWARD

This is a reference made by Central Government under Section 10 (1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

" Whether the action of the management of M/s. Raja Granites in denying employment to Shri V.V. Shanmugam w.e.f. 06-12-2004 justified? If not, to

what relief the concerned workman is entitled? "

2. The facts in brief are as follows :

The workman was a worker in a granite quarry run by Shri E.V. Rajan, the proprietor of M/s Raja Granite, Vengola since 1990. He was working continuously till 20-7-2004. At that time there was an accident in the neighbouring quarry. Hence the management closed down 'Raja Granite' for some time. The work was re-started on 6-12-2004. The workman reported for work on the same day. According to the workman he was denied work by the management. The workman was not given a notice of termination or service benefits. He was also not given bonus. The termination is illegal and he is entitled to be reinstated with all consequential benefits. The management in the written statement contended that the quarry was started only in the year 2002. It is true that there was an accident in the neighbouring quarry. But the 'Raja Granite' was not closed down. It was functioning in 2004 also. There is no employer-employee relationship between the workman and the management. In fact the claimant is working in some other quarry. He is trying to make illegal gain by raising a false claim. The management is employing less than 10 workers per day in Raja Granite. All statutory registers and records are maintained by the management. The workman is not entitled to be reinstated or to get any benefit from the management.

3. In the light of the above pleadings the following points arise for consideration :

- (1) Whether the claimant was a workman under Raja Granite?
- (2) If so, is the termination illegal?

When the matter came up for evidence the management remained absent continuously. Hence the workman was examined as WW1 and an experience certificate issued by the management was marked as Ext. W1.

5. Point No. (1) & (2) :

The contentions of the workman that he was working in Raja Granite belonging to the management since 1990 and that he was terminated from service on 6-12-2004 without giving him either a notice or compensation in lieu of notice are substantiated by the oral testimony of the workman as WW1. He has also produced Ext. W1 certificate of experience issued by Raja Granite on 13-7-2004. The certificate is to the effect that Shri V.V. Shanmugham (the workman) had worked in 'Raja Granite' for the past four years and his remuneration per day is Rs.225. The certificate is signed by Proprietor Shri E.V. Rajan. The testimony of WW1 and the documentary evidence of Ext. W1 are unchallenged. Therefore I find that the claimant was a worker under the management. He has worked at any rate not less than 4 years before the dispute arose. He is a workman coming u/s-2(S) of I.D. Act. He was not given a notice of termination before denying employment. He was

also not given compensation in lieu of notice. He was also not given retrenchment compensation according to the number of years he had worked under the management as contemplated u/s-25F of I.D. Act. The termination, therefore, is illegal. It follows therefore that he is entitled to be reinstated with back wages.

5. In the result an award is passed allowing the claim of the workman and finding that the action of the management in denying employment to workman Shri V.V. Shanmugham w.e.f. 6-12-2004, is illegal and unjustified and he is entitled to be reinstated with back wages from 6-12-2004 and all other consequential benefits. No cost. The award will take effect one month after its publication by the Government.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 16th day of October, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman : WW1 - Shri V.V. Shanmugham.

Witness for the Management : Nil.

Exhibits for the Workman : WI —Photostat copy of certificate issued by the management.

Exhibits for the Management : Nil.

नई दिल्ली, 6 नवम्बर, 2006

का.आ. 4583.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 153/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-11011/26/2003-आई आर(एम)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th November, 2006

S.O. 4583.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 153/2003) of the Central Government Industrial Tribunal/Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air Port Authority of India and their workman, which was received by the Central Government on 6-11-2006.

[No.L-11011/26/2003-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL :

PRESIDING OFFICER;

CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1,
NEW DELHI

I. D. NO. 153/2003

In the matter of dispute between :

Shri Naresh Kumar and others

Through the President,

Delhi Mazdoor Sangathan (Regd.)

Plot No. 1, Udasin Mandir, Aram Bagh,

Paharganj.

....Workman

Versus

The Chairman,

Airport Authority of India,

Rajiv Gandhi Bhavan,

Safdarjung Airport,

New Delhi - 110037

....Management

APPEARANCES: None for the workman. Shri Raman Kapoor Proxy for Shri Firoz Ahmed Advocate for management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L 11 0 11/26/2003 (IR(M) dated 27-11-2003 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of the Delhi Mazdoor Sangathan (Regd), New Delhi for reinstatement and absorption of the services of Contract labourers, namely, S/Shri Naresh Kumar, Jagdish, Anand Kumar, Mahabir Singh, Roshan Lal, Parmod Kumar, Harbir and Manoj Kumar, Sweepers in the Establishment of Airport Authority of India, New Delhi is just, fair and legal? If yes, to what relief the concerned workmen are entitled and from which date?"

2. After receipt of reference notices were issued to the parties for filing claim and written statement but none for the workman appeared and Shri Mukesh Kumar Legal Assistant for the management appeared. Despite issue of registered notice to the workman none appeared for the workman. It appears that the workman is not interested in prosecution of this case. Hence no dispute award is passed in this case. File be consigned to record room.

Dated: 26-10-06

S. S. BAL, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2006

का.आ. 4584.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार त्रिवेन्द्रम एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, अरनाकुलम, कोची के पंचाट (संदर्भ संख्या 151/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-11011/16/2002-आई आर(एम)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th November, 2006

S.O. 4584.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 151/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, Kochi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Trivandrum Air Port Authority of India and their workman, which was received by the Central Government on 6-11-2006.

[No. L-11011/16/2002-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: Shri P. L. Norbert, B.A., LL.B.,
Presiding Officer.

(Thursday the 19th day of October, 2006/
27th Asvina, 1928)

I. D. 151/2006

(I.D.17/2003 of State Labour Court, Kollam)

Workman: Shri K. Prasad,
TC 78/2468, Vallakkadam,
P.O. Sree Chithra Nagar, Near Airport
Vallakadavu P.O. Trivandrum.

Adv. Shri Santharam

Management : 1. The Airport Director,
Trivandrum Airport Authority of India
(NAD),
Trivandrum International Airport,
Trivandrum -695 008.
2. M/s R.K. Electricals,
Mr. Sajith, Proprietor PRA 53,
Puthupallay Lane Medical College P.O.
Trivandrum -695 001
3. Shri K. Prasad,
T.C. No.78/2468
Sree Chitra Nagar, Near Airport
Vallakadavu P.O.
Trivandrum.

Adv. Shri K.L. Narasimhan and
Shri V. Santharam

AWARD

This is a reference made by Central Government under Section 10 (1)(d) of Industrial Disputes Act, 1947 to this

court for adjudication.

The reference is with regard to demand for regularization of contract labourer in the International Airport, Trivandrum. The case was originally pending before Industrial Tribunal, Kollam and was transferred to this court as per order of Hon'ble High Court of Kerala. Despite notice the workman has not turned up to adduce evidence. He is remaining absent continuously. The reference was made in 2003. There is no point in keeping the case pending indefinitely. The workman seems to be not interested to proceed with the case. Hence I find that there is no subsisting dispute.

In the result an award is passed finding that the demand of Shri K. Prasad, the workman for regularization as an Electrician/Wireman in Airports Authority of India, Trivandrum Airport is unjustified and the contract entered into between the contractors and the management of Airports Authority of India is not genuine. The award is passed accordingly. Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 19th day of October, 2006.

P. L. NORBERT, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2006

का.आ 4585.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण सं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 53/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-11011/20/2002-आई आर(एम)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th November, 2006

S.O. 4585.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/2003) of the Central Government Industrial Tribunal No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workmen, which was received by the Central Government on 6-11-2006.

[No. L-11011/20/2002-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL :
PRESIDING OFFICER,

CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1,
NEW DELHI

I. D. NO. 53/2003

In the matter of dispute between :

The Senior Working General Secretary,
Airport Employees Union,
1, Vithal Bhai Patel Marg,
Rafi Marg,
New Delhi - 110001.

Workman

Versus

1. The General Manager,
General Administration,
IAD Operation Office,
Gurgaon Rd. Rangpuri,
New Delhi 37.

2. M/s Meet Electricals,
74-75 RPS Flats,
Near E Block,
D.D.A. Shopping Centre,
Vikasuri, New Delhi-110018.

3. M/s M R Enterprises,
601/90, Mansarovar Bldg,
Nehru Place,
New Delhi - 110019.

Management

Appearances : None.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L -11011/20/2002 (IR(M) dated 31-03-2003 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of AAI(IAD) New Delhi in stopping the workman Shri Parvinder Kumar Yadav and 17 others who were engaged by M/s Meet Electricals and not regularizing them is justified? If not, to what relief and benefits they are entitled to and from what date?"

2. After receipt of reference notices were issued to the parties on 22-5-2003 but none for the workman appeared on any of the hearings and Shri A.P. Vinod Advocate A/R for the management, Shri Kishan Chand, Manager, Electrical for respondent No.1 and Shri Gagan Sharma, Supervisor for respondent No.3 appeared. Despite notice none for the workman appeared. It appears that the workman is not interested in prosecution of this dispute. Hence No Dispute Award is passed in this case. File be consigned to record room.

Dated : 26-10-2006

SANT SINGH BAL, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2006

का.आ 4586.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक

अधिकरण सं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/62 का 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-31012/2/98-आई आर(एम)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th November, 2006

S.O. 4586.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/62 of 2005) of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bombay Port Trust and their workmen, which was received by the Central Government on 6-11-2006.

[No.L-31012/2/98-IR (M)]

SURENDRA SINGH, Desk Officer

PRO ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT

SHRI A. A. LAD, Presiding Officer

REFERENCE No CGIT-2/62 of 2005

(OLD REF. NO. CGIT-295 OF 1998)

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF BOMBAY PORT TRUST

The Chairman,
Bombay Port Trust
MUMBAI 400 038.

AND

Their Workmen

The Secretary,
Mumbai Port Trust Dock and General Empl. Union,
Port Trust Kamgar Sadan,
Nawab Tank Road,
Mazgaon, Mumbai.
(Shri A.P. Misra)

APPEARANCES :

For the Employer : Mr. M. B. Anchan, Advocate

For the Workmen : Mr. Jaiprakash Sawant,
Advocate.

Date of Reserving Award : 20th July, 2006.

Date of passing of Award : 31st August, 2006.

AWARD - II

The matrix of the facts as culled out from the proceedings are as under :

The Government of India, Ministry of Labour by its Order No. L-31012/2/98/IR(M) dated 21st July, 1998 in exercise of the powers conferred by clause (d) of sub-section (i) and sub-section 2(A) of section 10 of the

Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Bombay Port Trust in reducing the pay of Shri Ambika Prasad Mishra by four stages is justified? If not, to what relief the workman is entitled to?”

2. The 2nd Party was working in the year 1991 as a Depot Superintendent in the Stores Department of Mumbai Port Trust and was attached to the stationary, uniforms and steel sanctions. The Port Trust had to store a huge quantity of coal in order to run its steam engines on Port Trust Railway lines. The steam engines were discontinued in 1990 and about 800 M.T. of coal was lying unused in the Loco Shed at Wadala. In August, 1989, a proposal was submitted to the Chairman of the Board of Trustees by the Chief Engineer, Deputy Conservator, Chief Mechanical Engineer, Controller of Stores and the Additional Chief Accountants Officer to shift the steam coal to an alternative site viz. the Wagon Repair shop. Grain Depot and coal powder mixed with earthy and stone to the Wadala incinerator. The proposal was approved by the Chairman on 28th August, 1989. It is alleged that the 2nd Party initiated action for disposing of 200 M. T. of steam coal through a limited tender in November, 1989 contrary to the orders of the Chairman and that he accordingly submitted a note on 8th November, 1989. It is alleged that the 2nd Party submitted that in accordance with the instructions of the Deputy Controller of Stores to another employee of the Port Trust, dealers in coal and coke from Sewri were taken to the coal shed at Wadala with a view to ascertain the value of the material lying there. It is further alleged that the 2nd Party submitted a note on 15th November, 1989 to the Controller of Stores to the effect that keeping in view the condition of the material, a rate of Rs. 128/- per metric ton plus 8% sales tax offered by a particular dealer was reasonable. It is alleged that the 2nd Party did not follow the office procedure of keeping a record of having obtained acknowledgment for tender documents. On this note of the 2nd Party, it is alleged that 200 M.T. of stream coal came to be disposed of though the 2nd Party was not concerned with the Disposal Department.

3. A charge sheet was issued on 28th April, 1993 by the Controller of Stores to the 2nd Party by which a departmental enquiry was concerned. The articles of charge that were framed against the 2nd Party were broadly thus :

- (i) That the 2nd Party had failed to maintain absolute integrity and devotion to duty; in that though under the approval granted by the Chairman of the Port Trust on 26th August, 1989, steam coal was to be shifted to an alternative site, the 2nd Party disposed of 200 M.T. through limited tenders in violation of Regulation 3(1) of the Bombay Port Trust Employees (Conduct) Regulations, 1975;

- (ii) That the 2nd Party submitted a note on 8th November, 1989 recording that in accordance with the instructions of the Deputy Controller to another employee dealers were taken to the Shed at Wadala with a view to ascertain the value of the Material. However, in a statement before the Assistant Chief Vigilance Officer, the 2nd party confirmed that he had never visited the site either while submitting the his note to the Controller or after completing the delivery of the material. It was alleged that the 2nd Party had furnished incorrect information and had accordingly violated Regulation 3(1) of the Employees (Conduct) Regulations;
- (iii) The 2nd Party had submitted a note recording that the rate of Rs. 128/- per metric ton plus sales tax was reasonable though he had not visited the site to see the quality of the material, thereby violating Regulation 3(1); and
- (iv) The 2nd Party had not followed the procedure of keeping a record of having obtained acknowledgments from tenders to whom tender documents for the disposal of coal through limited tenders had been dispatched or delivered. Some of the dealers were not reputed dealers and an enquiry in the market showed that their whereabouts could not be traced.

4. On these charges a departmental enquiry was held. The 2nd party filed his written statement on 25th March, 1993. Evidence was adduced in the course of the enquiry. Ultimately, the disciplinary proceedings resulted in an order of the disciplinary authority reducing the pay of the 2nd Party by four stages from Rs. 4940/- to Rs. 4340/- in the time scale of pay attached to the post of Depot Superintendent for a period of four years. The order of the disciplinary authority directed that the 2nd Party will not earn any increment during the period of reduction and that upon the expiry of the period, the reduction will not have the effect of postponing his future increments of pay. An appeal was preferred by the 2nd Party which was rejected by the appropriate authority on 15th October, 1996.

5. This claim of the 2nd Party was resisted by 1st Party by filing written statement at Exhibit 7 stating and contending that, enquiry was conducted by following principles of natural justice. Same argument is repeated by Advocate Mr. Jai Prakash Sawant who was working as a Union Leader. Against that case of the first party is that inquiry was fair and proper and the finding given by the Enquiry Officer was just and proper. The charges levelled against 2nd Party were proved and decision taken of reducing pay of the 2nd Party by four stages/stopping increments, which are under challenge, was just and proper.

6. On the basis of the said pleadings issues were framed at Exhibit 8 by my Ld. Predecessor. In Part I Award, point of fairness of the enquiry and perversity of finding was decided by passing award dated 18th May, 1999 holding enquiry not fair and proper and finding perverse. At that time, 1st Party was facilitated to lead evidence to prove the charges levelled against 2nd Party. However 1st Party failed to lead evidence and my Ld. Predecessor closed evidence of the parties, passed Award Part II on 29-11-1999 holding action of the management reducing the pay of 2nd Party by four stages is not justified and directed 1st Party to pay the same to him.

7. Said Award was challenged by the 1st Party by filing Writ Petition No. 2309 of 2000. In the said Writ Hon'ble High Court considered both the Awards, i.e. consider point of fairness of inquiry and perversity as well as quantum and set aside both the orders by making certain remarks as follows:

“ In the present case, the charge sheet that was issued to the 1st Respondent spelt out with precision the nature of the charges and the manner in which the employee was alleged to have violated Regulation 3(1). The Charge was that (i) in breach of the approval granted by the Chairman of the Board to the shifting of a stock of steam coal to an alternative site under the control of the Board, the 1st Respondent had initiated the process of disposing of a stock of 200 MT by inviting limited tenders; (ii) The 1st Respondent, contrary to his own note dated 8th November, 1989, had neither visited the site either at the time of his submissions or after completing delivery; (iii) In preparing a note to the effect that the rate which had been offered by certain dealers was reasonable, the 1st Respondent had not visited the site to verify the quality of the material; and (iv) the 1st Respondent had not followed the requisite procedure for the purpose of completing the limited tender enquiry. The charges, were, therefore, not vague, but were specified with precision so as to enable the employee to understand what the nature of the allegation against him was. The 1st Respondent submitted his reply and his case was that he acted in accordance with the instructions of his superiors. Therefore, it is impossible to accept the findings of the Industrial Tribunal that the charge sheet was vague or that the disciplinary enquiry was vitiated on that ground.

In so far as the 2nd finding is concerned, the 1st Respondent called for the production of copies of enquiry proceedings that were held against Mr. S.R. Hardi who was the Deputy Controller of Stores. Regulation 12(12) of the Employees' (Classifications, Control and Appeal) Regulation, 1976 of the Petitioner provides that the enquiring authority shall, on receipt of a notice for discovery or production of documents, forward the same

or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in the requisition. Under the proviso thereto the enquiring Authority is entitled, for reasons to be recorded in writing, to refuse such documents which in his opinion, are not relevant to the case. The defence of the 1st Respondent in his reply to the charge sheet of 25th May, 1993 was that he had acted in accordance with the instructions of his superior and that the Deputy Controller of Stores was proceeded with departmentally on similar charges. The First Respondent was clearly not entitled to copies of the disciplinary proceedings in Hardi's case. If the case of the First Respondent was that he acted in accordance with the instructions of his superior, the burden was on him to establish that defence by seeking a summons to Mr. Hardi or the concerned officer. Neither has the Industrial Tribunal indicated as to how the non production of those documents was a matter of prejudice nor for that matter has the first Respondent been able to establish before the Court that any prejudice has been caused to his case by the non-production of the documents. The finding of the Industrial Court on this ground is clearly unsustainable.

In so far as the third finding is concerned Regulation 12(18) of the Employees (Classification, Control and Appeal) Regulations, 1976 provides that the enquiring authority may, after the employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the employee to explain any circumstances appearing in the evidence against him. The question which arises for consideration is as to whether the disciplinary enquiry must be held to be vitiated in every case on account of the omission on the part of the enquiry officer to question an employee where the employee has not adduced evidence. It must be noticed that sub-regulation (18) confers a discretion upon the enquiring officer to examine the employee after the employee closes his case and uses the expression 'shall' when it requires the enquiring authority to question the employee on the circumstances against him where he has not examined himself. However, in my view, it would not be correct to hold that the disciplinary enquiry would stand vitiated in every case upon an omission of the enquiring authority to do so. In the present case, for instance, the employee was defended by a defence representative who was himself a member of the trade union. The 1st Respondent took a conscious decision, one would presume, not to step into the witness box, though he was not bound to do so. Having chosen not to adduce any evidence on his own behalf, the employee cannot then be heard to contend that omission on the part of the enquiry authority to examine him with reference to the circumstances appearing against him in the evidence would vitiate the enquiry. There is no proof of prejudice. A judgment of a

Division Bench in *Chandrakant Damodar Kale vs Nagpur Improvement Trust* 1998 1 CLR 319 may be adverted to in this connection. In that case, the enquiring officer failed to put to the petitioner circumstances arising out of a certain piece of evidence as required in Rule 8(20) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 which were *parimateria*. Adverting to the decision of the Supreme Court in the context of Section 352 of the Criminal Procedure Code of 1898 the Division Bench held that an omission to question the accused on the circumstances arising from the evidence have been held not to vitiate even a criminal trial *ipso facto* since the prejudice occasioned by such defect must be established. By the accused. The judgment of the Division Bench is a clear answer to the submissions which has been urged on behalf of the First Respondent. The First Respondent has neither in the Industrial Court nor before this Court urged any submission that would indicate any element of prejudice due to the omission of the enquiry officer to question him with reference to the circumstances appearing against him. Counsel for the 1st Respondent relied upon a decision of the Supreme Court in *Ministry of Finance v S. B. Ramesh* (1998 1 CLR 659). Reliance was sought to be placed on the Head Note in the Issue of the Current Labour Reports, but it is trite experience that Head Notes can some times be misleading. This is one of those cases, in the case before the Supreme Court, an order of the Central Administrative Tribunal was challenged. Before dealing with the issues which arose, the Supreme Court observed that despite the passage of nearly three years after the leave was granted, government had not taken any steps to complete the paper books with the result that only the judgment of the Tribunal, apart from the Special Leave Petition and the counter affidavit filed before the Tribunal were available on the record. No other documents, the Supreme Court noted, had been produced. The Supreme Court adverted to the decision of the Central Administrative Tribunal in extense in paragraphs 13 and 14. The charge against the officer in that case was that he had contracted a second marriage while his first wife was alive and though the first marriage had not been dissolved. The Tribunal in dealing with this charge of misconduct held *inter alia* that though the enquiry was set down *ex-parte*, the employee should have been furnished with an opportunity to explain the circumstances appearing against him in his evidence. This was therefore (as contadistinguished from the present case) a case where the employee had been proceeded against *ex-parte* and had therefore not defended himself in the course of the enquiry. The Tribunal did not rest its decision on this aspect alone since it also observed that the enquiry officer had marked several documents in evidence, though only one of them was proved and only one statement was alleged to have been recorded in the presence of the employee. This was held to be a serious error on the part of the Enquiry Officer. The Tribunal held that documents which were not duly prayed in accordance

with the law should not have been received in evidence. The Enquiry Officer and the disciplinary authority relied upon certain statements which were faulted by the Tribunal. The person who made the statement was not examined in the enquiry. The authenticity of the documents which were sought to be relied upon was not established. In this factual background, paragraph 15 of its judgment, the Supreme Court held thus :

“On a careful perusal of the above findings of the Tribunal in the light of the materials, placed before it, we do not think that there is any case for interference, particularly in the absence of full materials made available before us in spite of opportunity given to the appellants. On the facts of this case, we are of the view that the departmental enquiry conducted in this case is totally unsatisfactory and without observing the minimum required procedure for proving the charge. The Tribunal was, therefore, justified in rendering the findings as above and setting aside the order impugned before it.”

The facts of the aforesaid case have been adverted to in some detail. The findings of the Supreme Court clearly show that it was on a totality of all these facts and circumstances that it was held that no case for interference with the order of the Tribunal was warranted.

In the light of the aforesaid discussions, therefore, the finding of the Industrial Tribunal of a breach of the principles of natural justice is hence required to be set aside.

The Industrial Tribunal made a brief reference to the Findings which have been arrived at by the enquiry officer and held that the analysis by the enquiry officer was not proper. The Tribunal has held in the one fell swoop that the testimony of the witnesses reveals that the workman had acted in accordance with the directions of superiors. In my view, the Tribunal in determining whether the findings that were arrived at by the enquiry officer were perverse, ought to have considered the matter in greater detail. The Tribunal under the provisions of Section 118 of the Industrial Disputes Act, 1947 exercises powers which are supervisory in nature and would not be justified in setting aside findings which are borne out by the evidence on the record. In these circumstances, therefore, the impugned award of the Industrial Tribunal dated 18th May, 1999 suffers from legal perversity and must therefore, be quashed and set aside. The Tribunal, it must be noted, furnished an opportunity to the First Respondent to lead evidence. That opportunity was not availed of by the 1st Respondent. Since the first Respondent has failed to avail of an opportunity to lead evidence, it would not now be permissible for the First Respondent to do so. The Tribunal having principally applied its mind to the question of a violation of the principles of natural justice quashed and set aside the findings of the enquiry officer. As already

noted above, the findings on the question as to whether the findings of the enquiry are perverse are perfunctory and would merit a fresh consideration by the Tribunal.

In the circumstances the impugned awards dated 18th May, 1999 and 29th November, 1999 are quashed and set aside. The matter shall stand remitted back to the Industrial Tribunal for considering as to whether the findings which have been arrived at in the course of the enquiry suffer from any perversity and on the question as to whether the punishment that was imposed upon the First Respondent was shockingly disproportionate. The Petitioner shall not be entitled to lead any further evidence in the matter before the Tribunal.

8. As a result of remand of the reference to this Tribunal as per above observations and directions Hon'ble High Court directed to consider the following issues which I answer against each :

| Issues | Findings |
|---|----------|
| 1. Whether the findings which have been arrived at in the course of the enquiry suffer from any perversity? | No |
| 2. Whether punishment that was imposed upon the 2nd Party was shockingly disproportionate? | No |

REASONS :

Issues Nos. 1&2

9. As a result of remand of this matter by the Hon'ble High Court while deciding Writ Petition No.2309 of 2000 certain observations, as referred above were made and this Court was directed to give findings on the above Issues, observing that, finding of fairness of the enquiry, perversity of the finding and as a result thereof regarding quantum of punishment was whether according to the facts of the case?

10. In that light if we reproduce the evidence led by 1st Party to establish charges levelled against 2nd Party workman, we find 1st Party has examined in all 4 witnesses. First witness examined was named V.B. Landge, Deputy Controller of Stores, who states in his examination-in-chief that, he knows 2nd Party was working as Depot. Superintendent attached to stationary uniforms and steel. In addition to that, he was looking after purchase work etc. He states that, he recorded statement of charge sheeted employee, of Shri Patkar, Assistant Store Keeper, Shri Parab, Assistant Store Keeper. He states that, said statements were referred by the witnesses who have admitted those and were admitted before the Enquiry Officer. He states that Deputy Chairman passed order on 14th January, 1989 Exhibit 8. He also states that he noted certain irregularities noting that if any material was required to be disposed off the same was required to be inspected by the Standing Inspection Committee. However, as per Exhibit 9 said was not inspected by the Standing Inspection

Committee. Besides it is stated that, if such material falls more than Rs.10,000 and below Rs.1 Lakh it is to be inspected by the Standing Committee. Besides he states that as per Exhibit 97 proposal of the Chairman was obtained to transfer steam coal from Loco Shed at Wadala to Wagons Repairs Shop, Grain Depot and the Steam coal consisting of powder and stores was to be transported to Wadala Incinerator. He states that, there was no proposal to dispose off the said steam coal as happened in the instant case. He states that, as per Exhibit 8 COS proposal was to shift coal which was weighing 800 metric tonnes from Loco Shed Wadala to Wagon Repairs shop at Grain Depot. In the cross this witness states that, charge sheeted employee has not taken permission of the superiors to dispose off the steam coal. He also states that, he has no idea whether tenders for steam coal were called by the 2nd Party. Second witness examined by 1st Party was Arjun J. Pise who was Store Keeper in Stores Department who states that Exhibit 11 bears his signature. It was recorded by Mr. D.D. Sheewale, Assistant Chief Vigilance Officer. He States that he did not want to add any more in the said statement at Exhibit 11. He also admits that, he never saw the material and never inspected site alongwith the charge sheeted employee to the Sewree Coal Depot. From where the coal was to be shifted. He also states that he never seen the material and assess the value of it. He admits that, he was charge sheeted by Wadala Police and was prosecuted. Then 1st Party examined Dinkar D. Sheewale as its 3rd witness who admit, Exhibit 11 the Statement recorded by him of Mr. Phise dated 22-8-1991, even statement recorded by charge sheeted employee was shown to him dated 5-4-1991 (Exhibit 13) which he admits. He also identifies Exhibit 5, the tender documents on which approval of COS was obtained by the charge sheeted employee. He states that, in the investigation he noticed irregularities in the matter of steam coal and that generally while disposing of unserviceable surplus material it was necessary to get material inspected by the Committee as mentioned in Exhibit 9. This witness further states that, Standing Inspection Committee has not taken out inspection and inspected by following the proper procedure. He further states that as per Exhibit 4 charge sheeted employee has disposed off steam coal by obtaining COS's approval and that the 2nd Party did not keep record of the parties to whom tender documents were issued. Even he has not maintained the record while preparing Exhibit 6 and certified the responsibility of the rate of material to be disposed off. Even he noted that without visiting the site 2nd Party did work of disposal of the coal which was not at all the subject matter of the work as coal was to be shifted and not to be disposed off as done by 2nd Party. 1st Party has examined fourth witness by name Chandan Kumar Sarkar who states that, he worked as Section Officer during that period and 2nd Party was working under him. Exhibit 5 was shown to him which bears initial of the 2nd Party. He states that, 2nd Party has informed that he had been assigned some work, however, he did not disclose work

whether it was in connection with Exhibit 5 and he was permitted by him to attend to it to the Dy. EOS as informed by the charge sheeted employee. He further states that, subject matter of disposal of the coal was under his charge. However, it was done by the 2nd Party without his permission or authority. He states that he noted limited tenders called by 2nd Party to suit his purpose and he disposed off the coal which was not to be disposed off but was to be shifted. He is unable to state whether every decision taken by the 2nd Party, in the process of disposal off the coal, was taken with the prior approval of his superiors or not.

11. It is pertinent to note that, in the enquiry 2nd Party did not examine himself. Even in the Court also he did not step into the witness box and justify his decision as to how he decided to dispose off the coals when actually said coal was to be shifted? Moreover as observed by the Hon'ble High Court while deciding and remanding back this reference to this Court for adjudication that, burden was on the 2nd Party to show that, he acted as per the directions of his superiors and there were sanctions to his decision to dispose off the coal. But from the enquiry proceedings it reveals that, said burden is not properly discharged by the 2nd Party though he got an opportunity even at the time of the enquiry as well as at the time of leading evidence before this Tribunal. It is pertinent to note that, instead of examining himself i.e. 2nd Party he chose to lead evidence of his Advocate Mr. Jai Prakash Sawant who defended his case before the Enquiry Officer as well as before this Tribunal. When burden of proving is on the 2nd Party that he acted as per the directions of his superiors and was having permission to act as he acted reveals that, his act was over act and he acted beyond his limits.

12. The allegation of the 1st Party is that there was move of the 1st Party to shift the coal and not to dispose it off as happened in the instant case. Actually 2nd Party disposed off the coal instead of shifting it. 2nd Party is unable to prove that, he was directed by anybody or his superiors ordered him to dispose off the coal and not to shift as case made out by the 1st Party. Even there is no iota of evidence brought on record by the 2nd Party to show that, there is sanction to his action of disposing of disposal of the coal which he did in his discretion it raises series of questions. When his decision to dispose off the coal was an over act which was not sanctioned by any of his superiors or it was the plan of the 1st Party to dispose off the coal, definitely charges levelled against 2nd Party are required to be answered as proved by the 1st Party. There are number of charges levelled against 2nd Party and accordingly evidence is lead by the 1st Party. Charge of maintaining absolute integrity and devotion to duty and he acted contrary to the orders of the Chairman and disposed off 200 mts. Steam coal which was actually to be shifted. Other charge levelled against 2nd Party was that

he submitted note dated 8th November, 1989 of disposing off the coal saying that earlier note submitted by him was wrong one and submitted note dated 15-11-1989 showing rate of the coal @ Rs. 128/- per mt+8% sales tax and disposed off the coal without following proper procedure and sanction of the Chairman. All that proves that 1st Party established that, 2nd Party over acted. He acted against the direction of the Chairman. Actually directions were given to shift the coal and not to dispose off. Issue of valuation of the coal is not within his powers and he cannot dispose off the coal and causes loss to the 1st Party. When burden of showing sanction behind his action on 2nd Party and when he did not discharge. In my considered view he must be held responsible for the act which is rightly concluded by the Enquiry Officer.

13. Even if we peruse the findings of the Enquiry Officer submitted with Exhibit 9 from pages 26 to 49 more precisely, we find Enquiry Officer has discussed the evidence of 4 witnesses in detail. He discussed their examination-in-chief and cross and considered its evidence and value. He also considered documents supported through the witnesses and observed 2nd Party acted at his own without sanction and was responsible for his over act. He also noted that, 2nd Party has not examined himself and proved that there was indeed sanction behind his actions and his action was bona fide and he obtained permission, to dispose of the coal which he did. When there is no sanction to the 2nd Party's act to dispose of the coal and when no evidence is lead on that point and brought on record by him in my considered view, the enquiry officer was right in observing action of the 2nd Party was an overt act.

14. So if we consider all this coupled with evidence brought on record by both I conclude that charge levelled against 2nd Party is proved beyond reasonable doubt.

15. On the basis of the said findings decision was taken by the first party of reducing the pay of the 2nd Party by four stages for a period of four years. It is pertinent to note that decision was taken by the 2nd Party within his discretion of disposing of the 200 mts. of coal which was rather shocking one. It is pertinent to note that, decision taken by 1st Party of reducing the pay of the 2nd Party by four stages/stopping 4 increments according to me is rather a soft punishment. Here major decision of disposing off 200 mts. of coal was taken by the 2nd Party, when there was no sanction of the Chairman of Standing Committee. In fact decision of the Chairman was to shift the coal. Besides there was no inspection of coal. No tenders were called for from proper persons and dealers. All these things, were done by the 2nd Party within his powers. There was no sanction of the 1st Party or any of the authority of that level on which decision taken by the 2nd Party of disposing off 200 mts. of coal which was an over act for which punishment under the challenge must be observed just and proper. In fact in such case severe punishment like

dismissal was just. However, 1st Party satisfied itself in awarding such a punishment which decided to reduce scale of 2nd Party by way of the punishment and imposed punishment of stoppage of 4 increments. When 1st Party satisfied itself in awarding that type of punishment, I have nothing to say about this but definitely said punishment cannot be said as disproportionate to the charges proved against 2nd Party.

16. In view of the discussions made above I conclude that the reference of the 2nd Party deserves to be rejected. Hence, the order :

ORDER

Reference is rejected with no order as to its costs.

Mumbai,
31st August, 2006

A. A. LAD, Presiding Officer

नई दिल्ली, 6 नवम्बर, 2006

का.आ. 4587.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जे ए सी, एयर सर्विस 'पी' लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/भ्रम न्यायालय नं. 1 नई दिल्ली के पंचाट (संदर्भ संख्या 33/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-11011/35/2004-आई आर(एम)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th November, 2006

S.O. 4587.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of JAC Air Services (P) Ltd. and their workmen, which was received by the Central Government on 6-11-2006.

[No. L-11011/35/2004-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL PRESIDING
OFFICER; CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1 NEW DELHI

I. D. NO. 33/2004

In the matter of dispute between:

The Secretary,
The Airport Employees Union,
Vandana Building,
11 Tolstoy Marg,
New Delhi-110001.

—Workman

VERSUS

M/s. Paramopt Agency (P) Ltd.,
Sarvajanik Bhavan, Cargo Complex,
Terminal -II, IGI Airport,
Rangpuri, New Delhi.

2. JAC Air Services (P) Ltd.,
Sarvajanik Bhawan, Cargo Complex, Terminal -II,
IGI Airport, Rangpuri,
New Delhi.

—Management

APPEARANCES: None.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11011/35/2004 I. R. (M) dated 10-6-2004 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of the Union of the Airport Employees Union (Regd.) 3, Vithal Bhai Patel House, Rafi Marg, New Delhi against GM (P) Airport at IGI, New Delhi for regularization/ Absorption of the 885 contract workers from their joining duties (List enclosed) engaged in the work of packers and loaders is just, valid and legal? If so to what benefits the workmen concerned are entitled and what directions are necessary in this matter ?"

2. After receipt of reference notice was issued to the workman to file claim statement but none appeared for the workman. Perusal of record shows that only once on 17-8-05 Shri Rupinder Singh for the respondent No. 2 appeared but none appeared for the workman. It appears that the workman is not interested in prosecution of this reference. Hence No Dispute award is passed in this case File be consigned to record room.

Further it is ordered that the requisite number of copies of this Award be forwarded to the Ministry of Labour for necessary action at their end.

S. S. BAL, Presiding Officer

Dated: 26-10-06

नई दिल्ली, 6 नवम्बर, 2006

का.आ 4588.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर सीमेंट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/भ्रम न्यायालय ए. आई. टी. मुम्बई के पंचाट (संदर्भ संख्या ए. टी. बी. 3 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-2006 को प्राप्त हुआ था।

[सं. एल-29011/108/2002-आई आर(एम)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th November, 2006

S.O. 4588.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. NTB 3 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court NIT, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mysore Cement Ltd. and their workmen, which was received by the Central Government on 6-11-2006.

[No. L-29011/108/2002-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL
AT MUMBAI

PRESENT

JUSTICE GHANSHYAM DASS

Presiding Officer

Reference No. NTB-3/2003

Parties : Employers in relation to the management of
Mysore Cement Ltd.

AND

Their workman

Appearances :

| | | |
|--------------------|---|--------------------------|
| For the Management | : | Mr. Mohit Kapoor, Adv. |
| For the Union | : | Shri, Muralidharan, Adv. |
| State | : | Maharashtra |

Mumbai dated the 11th day of October 2006

AWARD

1. The Govt. of India, Ministry of Labour, New Delhi vide their order No. L-29011/108/2002-IR(M) dated 01-9-2003 has referred the industrial dispute exercising powers under clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act 1947 (hereinafter referred to as the Act. The terms of the reference are as follows :

“Whether the settlement signed between Cement Manufacturers Association and Federation Viz. INCWF (INTUC), ABCM Sangh (BMS), AICWF (AITUC) and CTTU on 14-8-2000 before the Conciliation Officer would be binding upon the Mysore Cements Ltd Ammasandra, Tumkur distt. (KN) and whether the workmen of Mysore Cements Ltd are entitled to claim wage rates etc, as in the said settlement and as prevailing in the industry?”

2. The Statement of claim dt. 04-11-2003 has been filed through the Secretary, Mysore Cements Employees Association (hereinafter referred to as First Party/Union). The First Party/Union is a Trade Union registered under Trade Unions Act, 1926 and it represents the entire work force employed in the factory at Ammasandra and the Line Stone quarry at Yerelatta, Tumkur District, Karnataka. It is recognized by the Second Party/Management of Mysore

Cement Ltd., Bangalore. It is affiliated to All India Cement workers Federation which in turn is affiliated to AITUC. Mysore Cement Ltd. is a company registered under the Companies Act. It is engaged in the manufacture of cement of a various grades. It has manufacturing units at Ammasandra, (Karnataka), Damoh (Madhya Pradesh), Grinding Unit at Jhansi (Uttar Pradesh). The Registered and Corporate Office of the Company is at Bangalore. The issue of wage determination for the cement industry used to be done through Wage Boards, Awards, Arbitration Awards and National level Wages Settlements.

There were two Wage Boards in 1959 and 1964, Raghunatha Reddy Award on Minimum Wages on 15-1-1973, Bipartite Settlement on wage structure before Shri T. A. Pai on 17-7-1975, Arbitration Awards for Cement Industry in 1978 and 1982 Settlements signed before the Chief Labour Commissioner (Central) New Delhi on 10-5-1989, 31-7-1992 and 12-7-1996. The Settlements before the Chief Labour Commissioner (Central) New Delhi were in between the Cement Manufacturers Association (for short CMA) representing the Employers and the Trade Unions representing the cement workers in various cement manufacturing Companies in country. The Settlements were signed under Section 12(3) read with Section 18(3) of the Act. The settlements so arrived at were binding on the members of Cement Manufacturers Association (CMA) and the workers represented by their Trade Unions in the process of settlements. The Mysore Cement Ltd being one of the members of the C. M. A. used to take part in the process of conciliation and Settlements and as such implemented all Wage Board Awards, Arbitration Awards and also National Settlements Dt. 12-7-1996 which was applicable up to 31-3-2000. On account of the expiry of the aforesaid Settlement on 31-3-2000 the All India Cement Workers Federation along with other Trade Unions served a notice on the President of CMA, New Delhi for termination of the aforesaid Settlement and it simultaneously, submitted fresh charter of demands for revision of wages w.e.f. 01-4-2000. The All India Cement Workers Federation to which First Party/Union is affiliated addressed a letter to the First Party/Union advising it to submit the charter of demand formally on the Second Party/Management vide circular dt. 1st February, 2000 and accordingly the First Party/Union served the charter of demand vide letter dt. 07-2-2000 upon the Management. After elaborate negotiations, the representatives of the C. M. A. and the various Trade Unions signed a settlement at the intervention of Joint Chief Labour Commissioner (Central) New Delhi on 14-8-2000. The Second Party/Management continued to be one of the members of the C. M. A. as on the date of signing the aforesaid Settlement and till date. Hence, it is required to raise the wages since the Settlement is under Section 12(3) and 18(3) of the Act. The First Party/ Union accordingly aske the Management to implement the Settlement but it declined. Hence, the First Party/Union

moved petition before the Regional Labour Commissioner, Bangalore on 22-11-2000 which transferred the petition to the Deputy Chief Labour Commissioner (Central) New Delhi. Accordingly, the Dy. Chief Labour Commissioner (Central) had conciliation meeting on 21-5-2001 but it ended in failure. However, there was no reference of the dispute to the adjudication even after 3-4 months. Consequently, the First Party Union again, approached the Dy. Chief Labour Commissioner (Central) but it failed. Hence, the Government has made the instant reference.

3. The contention of the First Party Union is that the Second Party/Management of Mysore Cements Ltd is bound by the National Settlement dt.14-8-2000 since Mysore Cement continued to be the member of C.M.A. till date. It may be mentioned that almost all the Cement Manufacturing Company who were the members of the C. M. A. have implemented the aforesaid Settlement. The Mysore Cement had earlier implemented the Settlement of the year 1996 and also the other Wage Board Award, Arbitration Awards. The stand is taken by the Management that the aforesaid Settlement does not have a binding effect upon it since it had earlier informed the C. M. A for exclusion from the Settlement. Since the Settlement is under Section 12(3) read with 18(3) of the Act, it has got the binding effect to all the members of C.M.A. including the dissenting member. It is not fair on the part of the Management to wriggle out of the Settlement under the law and more so it has not entered into local Settlement with First Party Union. The Second Party Management did not bring any Court order or injunction restraining the C.M.A. from holding negotiation and signing Settlements on its behalf. The Settlement signed by the C.M.A. is in the larger interest of the Cement Industry as a whole and has a binding effect upon the Second Party/Management. The terms of the Settlement are just and fair and in the larger interest of the Cement Industry as a whole which fact is clarified by the Dy. Chief Labour Commissioner (Central). It may be mentioned that in the State of Karnataka, Rajshri Cement, Vasavadatta Cements have implemented the aforesaid Settlement, Associated Cement Company Ltd. has not agreed to implement the aforesaid Settlement but it entered into local Settlement raising the wages of the workers by the same amount as provided in the aforesaid National Settlement. There is no justification for the Second Party Management to refuse the implementation of the aforesaid Settlement at Ammasandra Unit, although it has agreed to increase the wages by having local Settlement at its Damoh Unit. Since the Second Party Management refused to discuss the matter with the First Party Union, there was a call of strike but it was not there on account of the reference by the Government.

4. The Second Party Management filed the written statement dt.23-12-2003. Its main contention is that the Settlement in question is not binding upon it on account of the fact that it had informed the C.M.A. not to enter into

negotiations on its behalf. Since the C. M. A had not ever been authorized by the Ind Party/Management to enter into any Settlement, the Settlement so arrived cannot be made applicable to it irrespective of the fact the Settlement was so arrived at before the Dy. Chief Labour Commissioner (Central). Admittedly, it continued to be the member of C. M. A but it never authorized C. M. A. to enter into any Settlement on its behalf and this fact has been brought to the notice of the Dy. Chief Labour Commissioner (Central) also. In fact, the C.M.A. was a registered body under the Societies Registration Act, 1860. It had no authority to enter into any Settlement on behalf of the Second Party/Management since it had specifically requested the C.M.A. vide letters dt.17-1-2000 and 27-3-2000 not to enter into any wage Settlement on its behalf. Since there was no authorization the mere fact that the Second party/Management is a member of C.M.A. is not bound by the Settlement in question and hence it has no legal obligations to implement the same. The Settlement in question cannot be said to be a Settlement in between the employer and workmen for want of authorization by the employer. The Second Party Management has also given out the reasons for not authorizing the C.M.A. for entering into any Settlement and they mostly relate to the resources of the Company. It is contended that the financial position of the Company was not such that it could implement the aforesaid Settlement. It is reported that the Company run into losses for the year :

| Year | Loss-Lac (Rs.) |
|-----------|----------------|
| 1996-1997 | (1377.87) |
| 1997-1998 | (4184.06) |
| 1998-1999 | (4897.50) |
| 1999-2000 | (5902.83) |
| 2000-2001 | (5958.06) |
| 2001-2002 | (3204.95) |
| 2002-2003 | (3541.52) |

totaling Rs.290.66 crores during the last seven years. The details of the losses for Ammasandra Unit has been given out separately i.e.

| Year | Loss-Lac (Rs.) |
|-----------|----------------|
| 1996-1997 | (1373.40) |
| 1997-1998 | (966.99) |
| 1998-1999 | (486.58) |
| 1999-2000 | (1691.32) |
| 2000-2001 | (1920.90) |
| 2001-2002 | (1478.22) |
| 2002-2003 | (1641.39) |

The Company has not been even able to meet its obligation towards its input suppliers and Stake holders

including financial institutions and Banks and also the payment of wages to the employees as per earlier settlements. It is submitted that the policy of the Government is survival of the fittest. It is not just and fair to create a "High-Wage-Island". Each employer should be at liberty to negotiate with its workers in accordance with the prevailing conditions for a just Settlement of the Wages. It is also submitted that in the matter of upward revision of wages of workers the capacity of an employer to bear and pay any increase in wages is more relevant, important and material factor. An Employer who cannot bear any additional burden at a time when the industry is in doldrums financially, cannot be expected to bear and pay any increase in wages and other benefits as laid down by the Honourable Supreme Court. It is also submitted that (a) The ACC Ltd. (b) Kanoria Industries Ltd. (c) OCL India Limited (d) Kalyanpur Cements Ltd. (e) Shree Digvijay Cement Co. Ltd. (f) Panyam Cements & Minerals India Ltd. (g) Lafarge India (h) IDCOL Cement Ltd. (i) Shriram Cement Works (j) Andhra Cements Ltd. (k) The KCP Ltd. (l) Indo Rama Cement Ltd. (m) Diamond Cement did not implement the Settlement in question on account of non-authorization but some of them implemented it under coercive pressure of the Union. The ACC, OCL, Shree Digvijay Cement Co. Ltd. Lafarge India, Andhra Cement have entered into Bipartite Settlement at their unit level and have kept themselves out of the aforesaid Settlement. The Kanoria Industries Ltd. Panyam Cements and Minerals Inds. Ltd. and KCP Limited have not even entered into Bipartite Settlements.

5. The First Party Union filed the rejoinder dt. 13-2-2004 and reiterated its stand. It is also contended that the Second Party/Management is not willing to negotiate with the First Party/Union on any of the charter of demand and hence it cannot claim that it is paying fair wages and that it is entitled to be spared by the implementation of the Settlement in question. The stand of the Second Party Management is nothing but a disrespect to the Honourable Settlement which has a legal binding effect.

5A The admitted position appears to be is that Mysore Cement continues to be a member of the C.M.A. till date from the inception of C.M.A. It never questioned the authority of the C.M.A. to negotiate on the charter of demands and in fact, implemented the earlier Settlements of 1992 and 1996 which were brought by the C.M.A. on behalf of the Second Party/Management. The Second Party/Management was aware that the Settlement would be under Section 12(3) read with 18(3) of the Act but it simply requested the C.M.A. to exclude it from the Settlement but never opted for termination of the membership nor brought any order from the Court to restrain the C.M.A. from representing it. Admittedly, the Settlement in question has not been implemented.

6. The reference in question made by the Government is for two points : (a) and (b)

- (a) Whether All India Settlement dt.14-8-2000 signed between the CMA and Federation is binding on the Second Party Management and;
- (b) Whether the workmen of the Second Party Management are entitled to claim wage rates etc. in accordance with the Settlement dt.14-8-2000 and prevailing the industry.

7. The parties have filed so many documents and all of them have been duly exhibited being not denied by each other.

8. The First Party/Union has filed the affidavit of Shri. N. Shivanna, the President of the First Party/Union, in lieu of his examination in chief and also the affidavit of H. Mahadevan, Dy. General Secretary of the Trade Union Congress in lieu his examination in chief. Both of them have been duly cross-examined by the learned counsel for the Company.

9. The Second Party management has filed the affidavit of Shri. Sannarangaiah, Senior Manager-Factory and Personnel of the Second Party Company in lieu of his examination in chief. He has been cross-examined by the learned counsel for the First Party Union.

10. I have heard the learned counsel for the Parties and have perused the record. The Written submissions have been filed by both the parties and they have also been perused.

11. DISCUSSIONS AND FINDINGS : The learned counsel for the Second Party/Management at the very outset drew my attention to the definitions given out in the Act. Viz. Section 2(g) "employer" means ---

- (i) in relation to an industry carried on/by or under the authority of any department of/the Central Government or a State Government/the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;
- (ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority.

Section 2(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

Section 2(p) "Settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner

as may be prescribed and a copy thereof has been sent to an officer authorized in this behalf by the appropriate Government and the conciliation officer;

Rule 58: Memorandum of Settlement :—(1)

A settlement arrived at in the course of conciliation proceedings or otherwise, shall be in form 'H'.

(2) The Settlement shall be signed by—

- (a) in the case of an employer, by the employer himself, or by his authorized agent, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the corporation :
- (b) in the case of the workmen, by any officer of a trade union of the workmen or by five representatives of the workmen duly authorized in this behalf at a meeting of the workmen held for the purpose;
- (c) in the case of the workman in an industrial dispute under Section 2-A of the Act, by the workman concerned.

12. On the basis of the above, the argument is developed to the effect that the Settlement has to be an agreement between the employer and workmen. The C. M. A. is not the employer and Federation is not the workmen. Hence, it is not an industrial dispute and the reference is not maintainable. It is submitted that the Federation which signed the settlement was never authorized by the workmen of Mysore Cement Limited.

13. I feel that only issue raised in the written statement is to the effect that the Second Party never authorized the C. M. A. to enter into any settlement on its behalf. It never raised the issue therein that the Federation was not authorized by the workmen. This plea is being raised for the first time in the written arguments. Hence, it is not to be entertained. Further, I may say that it is for the workmen to dispute the authorization of the Federation and not for the Company. The Federation had been using its authority on behalf of the workmen since long and there is no dispute for that. Hence, it is altogether misconceived to argue that there is no industrial dispute and the instant reference is not maintainable.

14. The only question which has been agitated by the Second Party from the very beginning is that it never authorized C. M. A. and for want of authorization in writing, the C. M. A. could not enter into any settlement and if it so entered, it is not binding upon it.

15. No doubt, the CMA is not the employer on the face of it, but it becomes relevant when it acts as all Agent on behalf of the Second Party. Thus, it is to be seen as to whether CMA acted as an Agent of the Second Party.

16. It is the admitted position that CMA had come into existence in the year 1989 and since then, the Second Party continues to be its member. In fact CMA is a registered body under the Societies Registration Act, 1860. It had come into existence for the welfare and benefit of the Cement industry as a whole throughout India. In fact, almost all major Cement manufacturers accepted the concept of CMA and became the members thereof. Since then, the CMA acted as a Agent of the Cement Manufacturers including the Second Party for settlement with the workmen through various trade unions for wage structure. Admittedly, the CMA entered into settlement in the year 1996 and the same was duly accepted and complied with by the Second Party. It was to expire on 31-3-2000 and hence the necessity was there for another settlement more so, in view of the notice given out by the trade unions. The CMA at the start of the negotiations wrote a letter dt. 12-1-2000 (M-16) to the Second Party to authorize it to negotiate with the unions.

This letter was replied by the Second Party on 17-1-2000 (M-1) and subsequently another letter was written on 27-3-2000 (M-2) to CMA. The request made by the Second Party was to the effect of exclusion from the settlement. This is the basis of the Company by means of which it is emphasized that the Second Party never authorized the CMA to enter into any negotiations. It is the factual position that the C.M.A., continued the process of negotiations and ultimately the settlement dt. 14-8-2000 was arrived at before the concerned Deputy Chief Labour Commissioner (Central). The Second party kept silent after informing the CMA by means of the above letters and then this fact was brought to the notice of the aforesaid Labour Commissioner. The Federation did not agree to the refusal/non-authorization by the Second Party. The factual position remained the same through out that the Second Party did not authorize in writing the CMA to enter into any settlement. Now, the question arises as to whether the Second Party can be still made reliable to this settlement in question and the answer appears to be in affirmative in view of the conduct of the Second Party which amounts to implied consent. The Second Party never chose to cancel its membership of CMA and continued to enjoy the fruits of the existence of CMA. The CMA had earlier made the settlement on 12-7-1996. at that time, the Second Party participated and complied with the settlement. In that Settlement there was a clause 10 that this Settlement would not be applicable to those Companies covered under Court order restraining the CMA to enter into any Settlement on behalf of them. Thus, the Second Party if it wanted CMA not to enter into any Settlement on its behalf the natural course for it would have been to bring a restrain order from the Competent Court. The silence on the part of the Second Party in this respect amounted to implied consent. Nothing is also brought on record that Second Party ever passed any resolution not

to authorize the CMA to enter into any Settlement. It was also necessary for it.

17. It is submitted that there are several Companies which did not comply with the Settlement but the reference is only with respect to the Second Party. In this respect, it has been brought on record that in the State of Karnataka, Rajshree Cements Ltd. Malkhed, Gulbarga District, Vasavadatta Cement Factory, Sedam, Gulbarga District have implemented the All India Settlement in question. The ACC has also implemented the Settlement by entering into a separate local Settlement which appears to be on the same lines as of the Settlement in question. Further, the Second Party itself has entered into a local Settlement for its separate unit in Damoh and thus, agreed to increase the wages. The dispute remains only with respect to Ammasandra unit.

18. It may be mentioned that if the Second Party was not inclined to accept the Settlement in question, it should have shown its eagerness to enter into local Settlement with the Union but it failed to do so. In fact, it continued to be rigid from the very beginning till today to the effect that the Settlement in question is not applicable to it but it neither created an atmosphere to enter into any other Settlement to keep the industrial harmony and peace nor it chose to enter into a separate Settlement with the local units at Ammasandra unit. It even failed to invite the local Unions for entering into any fresh Settlement. This conduct of the Second Party is not to be appreciated being noting but harassment and exploitation of labour.

19. It may be mentioned that M/s. Shree Digvijay Cement Co. Ltd. entered into local Settlement on 28-10-2000. Further, M/s. Diamond Cements entered into local Settlement dt. 30-6-2004, M/s. Andhra Cements also entered into conciliation on local Settlements. This argument is not tenable that CMA confirmed vide letters dt. 16-8-2000, 19-10-2000, 26-10-2000 and 5-11-2000 (Ex-M. 19, M.23, M-24 and M.42) respectively to the Second Party that the Settlement is not binding upon the Second Party since CMA could never do so nor it did which fact is evident from the bare perusal of the aforesaid letters. The CMA simply mentioned the fact that Second Party requested for its exclusion from the Settlement and did not authorize it is writing to enter into Settlement. The contention raised by the Second Party before Dy. Chief Labour Commissioner (Central) during the course of conciliation was also noted down in the proceedings but it was never accepted that the Settlement would not be having a binding effect on the Second Party. The local Union at Ammasandra was eager for the implementation of the Settlement in question and with a view of this intention and purpose requested the Second Party to implement the Settlement. As mentioned earlier, the Second Party neither implemented the Settlement nor showed any endeavour to have fresh talks and arrive at a fresh local Settlement which could have spared the

Second Party from the legal binding of implementation of the Settlement in question.

The learned counsel for the Second party placed reliance upon the following rulings :

- (i) 1968 (16) FLR 307 (SC, Sindhu Resettlement Corporation Ltd. v/s. Industrial Tribunal of Gujarat & Ors.
- (ii) 1981 II LLJ 184 (SC) Brooke Bond India Ltd. v/s. Workmen
- (iii) 1972 I LLJ 99 (SC) Workmen of Delhi Cloth and General Mills Ltd. v/s. Delhi Cloth and General Mills Ltd.
- (iv) 1993 LLJ 181 (High Court of Delhi) Naresh Kumar Bansal vs. G. S. Kalra & Anr.
- (v) 1999 II LLJ 425 (HC Delhi) Usha Spinning and Weaving Mills (Ex-Workmen) Association & Ors. v/s. Usha India Ltd. & Ors.

21. The learned counsel for the 1st Party relied upon the following rulings :

- (a) Indian Rare Earths Limited v/s. Promod Chandra Paramigrahi and Others. 2006-I-LLJ-PAGE-1080(SC)
- (b) National Engineering Industries Limited vs. State of Rajasthan & Others. 2000-I-LLJ page 247 (SC)
- (c) Virudachalam P. and Others vs. Management of Lotus Mills and another 1998-I LLJ Page 389 (SC)
- (d) Ramnagar Cane and Sugar Co. Ltd. vs. Jatin Chakravorthy and other 1961-I LLJ Page 244 (SC)
- (e) Sri Balaji Singh vs. The Hindustan Machine Tools Ltd. 1997 II LLJ Page 484 (KAR-HC)
- (f) Engineering Mechanical & Electrical Workers Union vs. National Textile Corporation 2001-III LLJ (suppl) Page 906 (Kera-HC)

22. After keeping in mind the settled legal position in view of the references (supra) and also the entire evidence available on record and the discussions made above, I conclude that the settlement in question would be deemed to have signed by the C. M. A. in the capacity of a Agent of the Company Second Party and the authority of the CMA to act as a Agent for the Second Party since its inception was never withdrawn by the Second Party. Hence, the Settlement in question would be a Settlement under Section 12 (3) read with Section 18 (3) of the Act and hence it is a legal binding upon the parties to the reference.

23. The learned counsel for the Second Party next argued that the Settlement in question has not been carried out in view of the financial hardships of the Company. The reference is made to the evidence of Mr. Sannarangaiah and also to the statement of Mr. H. Mahadevan and Shri.

N. Shivanna and also to the Annual reports of the Company in the year 1966 to 2003. The learned counsel also cited in this respect the following rulings :

- (a) 1964 ILLJ 342 (SC) in between Greaves Cotton & Co. Ltd. & Ors. Vs. Their workmen.
- (b) 1959 ILLJ 431 (SC) in between Lipton Ltd and Anr vs. Their Employees.
- (c) 1989 I LLJ 180 (High Court of Madras) in between The Management of Binny Ltd. (B&C Mills) vs. The Govt. of Tamil Nadu and Ors.

After going through the record it is clear that the Second Party did not lead specifically the ground of financial difficulties either before the CMA or before the Conciliation Officer. This ground has been taken up before this Tribunal to justify its refusal to implement the Settlement. I feel that the second Party has miserably failed to prove the financial difficulties in which the Settlement in question may not be implemented. The Honourable Supreme Court in the cases (supra) has laid down the basis for fixation of fair wages to the employees which may be enumerated as :

- (a) The capacity of a particular unit (marginal representative or average) to pay.
- (b) the capacity of a particular industry as a whole to pay, or
- (c) the capacity of all industries in the country to pay.

The Honourable Court has cautioned by observing that :—

“that the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organization so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the product no doubt against the ultimate background that the burden of the increased rate should not be such as to drive the employer out of business.”

24. The burden lies upon the Second party to prove its financial difficulties for refusal to implement the Settlement in question. I feel that this burden has not been discharged to the satisfaction of the Court. No care has been taken to show as to how much burden would be there upon the Company, if the Settlement in question is implemented. The increase in wages as per Settlement appears to be just Rs. 890/- per month with a burden upon the Company to the tune of Rs. One crore or so. The Company is reported to be running into losses worth so many hundreds of crores. If the loss is further added by Rs. One crore or so, I feel it would not make any difference. No evidence whatsoever has been laid by the Company to

show that the burden of the increased rate would be such as to drive the Company out of business. The effect that the matter has been reported by the Second Party under the provisions of BIFR Act in the year 2004 also makes no difference since the Company has not yet been declared as ‘Sick’ and the matter was reported only in the year 2004 i. e. during the pendency of the instant reference. It may also be observed that the Company was reported to be in loss in the year 1996 till 2000 but the Settlement of 1996 was fully implemented by the Company till its expiry. i.e. 31-3-2000. The Company has also admittedly enhanced the wages of the Officers by granting the increment ranging between Rs. 800/- to Rs. 8,000/- per month during the pendency of the instant reference but has not bothered for giving any benefit to the workmen. The wages mentioned in the Settlement in question are held to be fair wages. It may also be mentioned that no evidence whatsoever has been led by the parties on the point of ascertaining the wages prevailing in the industry contrary to the wages settled out in the Settlement in question.

25. Hence, it is held that the Settlement signed between Cement Manufacturers Association and the Federation viz. INCWF (INTUC), ABCM Sangh (BMS), AICWF (AITUC) and CTTU on 14-8-2000 before the Conciliation Officer would be binding upon the Mysore Cements Ltd. Ammasandra, Tumkur Distt (KN) and hence the workmen of Mysore Cements Ltd are entitled to claim wage rates etc. as in the said settlement.

26. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4589.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1035/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/6/93-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4589.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1035/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B. B. M. B. and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-42012/6/93-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh,

Case No. I. D. No. 1035/2k5

Registered on 19-09-2005

Date of Decision 09-10-2006.

Shri Dilbag Singh S/o Shri Gulzari, R/o VPO Luhari,
 Tehsil Bhiwanikhara, Zila Bhiwani, Haryana

....Petitioner

VERSUS

Executive Engineer, Stores and Arrears Division, BBMB
 Bhiwani, Haryana

.....Respondent

APPEARANCE

For the Workman : Sh. Hardial Singh Hundal
 Advocate

For the Management : Mr. Sajal Ahluwalia
 Advocate.

AWARD

The Govt. of India vide their notification No.L-42012/6/93-IR(DU)/(C-II) dated 24th August 1994, referred the following matter for the adjudication of this Court:

"Whether the action of the Management Beas Project, Bhiwani, in terminating the service of Shri Dilbagh w.e.f 28th February, 1990 is justified and legal? If not, to what relief the workman concerned is entitled and from what date?"

After the receipt of the notification, the notice thereof was issued to the parties who appeared through their Counsel and representatives. They filed their respective claims in the shape of statement of claim, written Statement, affidavits of the workman and that of witnesses of the Management. They also placed on record photo-copies of some documents. Both the workman and Mr. D.K Tayal, the witness of the Management appeared to answer the queries put in the cross examination.

In nutshell, the claim of the workman is that he was appointed as Mali on 6th May, 1987 and he continuously worked for the Management till his services were terminated on 28th Feb., 1990, without serving any notice on him. He was also not paid the retrenchment compensation. The Management violated the provisions of Industrial Dispute Act 1947, hereinafter to be referred as "ACT" by retaining the juniors whereas terminated his services and also by making fresh recruitment without offering the workman opportunity to serve. Thus the retrenchment of the workman was bad in law.

The Management has opposed the claim stating that the services of the workman were terminated on the completion of work of Beas Project in terms of section 25-

FFF of the Act, therefore, the workman is not entitled to any relief. Moreover the Project had been transferred to the BBMB and the Beas construction Board is no more in existence. It is further their claim that the workman was given 24 hrs notice in terms of Sec.25-FFF by which the workman was directed to collect the retrenchment benefits from the office of SDO Sub-Division, BCB, Bhiwani, but the workman refused to accept the notice and also did not collect the retrenchment benefits. They denied that any of the juniors of the workman was retained; and that in all only nine daily wagers were working in civil sub-division, in which the workman was engaged and all of them were disengaged due to completion of work, by following the principle of last come first go. They further denied that any fresh recruitment was made after the termination of services of the workman. It is also their case that although the workman was not entitled for compensation, but still the Management offered the same to him; and that since the work of the Project had completed, therefore, not only the daily wagers but also the work charge employees of the Management were retrenched w.e.f., 11th August, 1993.

As stated earlier the workman appeared as a witness in the case on 23rd October, 2002 and on a question from the Management admitted that he had received a notice from the Management, but he had refused to accept the same. In his Claim Petition also he admitted in para 2, that the respondent had served retrenched notice on him on 27th Feb., 1990, but he had not received the same and on 28th February, 1990, he was verbally told that his services are no more required. On record I find a copy of the notice dated 27th Feb., 1990, bearing No. 2043, issued by Executive Engineer GSS Division, Beas Project, Bhiwani, to the name of the workman. A perusal of photo copy of the notice shows that the Management had informed the workman that since there is reduction of work due to part completion of the project, therefore, the services of the workman were no more required w.e.f 29th February, 1990. The workman was advised to collect one month's wages in lieu of notice and the amount of retrenchment compensation from the office of SDO, C/W, SD-II, DP Bhiwani. Since the workman admitted that the Management had issued that notice on 27th Feb., 1990, therefore, it cannot be said that the workman was not given notice before terminating his services. In view of that notice the workman could collect his retrenchment compensation and a month's wages in lieu of notice period from the office of SDO, COD, Bhiwani on 27th February, 1990 or atleast on the next day but as he himself stated that he had not received the notice nor the compensation. Therefore, it is because of the conscious act of the workman that the compensation and notice wages could not be paid to the workman as he himself did not receive the same. Whatever was required of the Management to do, they had done it and if the workman did not receive the compensation it was because of his own conduct that he did not receive the same. Therefore, it

cannot be said that the Management failed to comply with the provisions of Sec.25-F of the ACT.

The next claim of the workman is that the Management did not follow the provision of Section 25-G & H as they retained the juniors of the workman whereas terminated his services and they also made fresh recruitments. He named one Ram Parsad, who had been appointed after his termination. But he failed to produce any evidence to show that any such Ram Pal was appointed after the termination of his services. Mr. D.K Tayal who appeared as a witness denied any knowledge of the recruitment of the person named Ram Paul. It was the duty of the workman to show that Ram Parsad was appointed by the Management after the termination of service of the workman. The Management has however, claimed that no workman was engaged in the Civil Sub Division in which there were only nine daily wagers and all of them were disengaged on the completion of the work, for which they were engaged. The Management has placed on record a copy of letter dated 9th March 1990, by which it was brought to the notice of the Engineer concerned that out of the nine daily wagers only one Suresh accepted the notice whereas the other eight refused to accept the same so the notices were sent to them under R/C. This document shows that there were only nine daily wagers working in the Management Division and all of them were given the notices of termination in the manner claimed, but they refused to accept the notices and finally they were issued the notices under R/C. The Management has also placed on record photo-copy of postal receipts by which the registered notice was sent to the workman in March, 1990. The workman has failed to show as to which of the juniors were retained when his services were terminated. He has also failed to show in which of the division he was appointed. Even he has not given the particulars of the Ram Parshad to make the Management to verify the particulars of such a person. Even in his Claim Petition he did make a vague claim that some persons were engaged by the Management.

The Counsel for the workman has tried to drive the benefit from the wording of the notice dated 27th Feb., 1990, a copy of which is placed on record. He has claimed that as per the notice there was only reduction of the work and not altogether ceasing of the work, as only a part of the Project had been completed and not whole of the work had completed. From the notice, according to him, it appears that the work was still available but despite that the Management terminated the service of the workman. In my opinion the argument is far fetched and cannot be accepted. It cannot be accepted that the intention of the Management was to terminate the services of the workman and leave the Project incomplete. It was the Executive Engineer, a competent authority, who had the authority to decide whether he required the services of all the workmen or only few of them. As an appointing authority it was he who was to decide whether the services of the workman were required

any more or not. Presuming that the work was still available, it was further required of the workman to show that the work available, could not be done by any other workman. Therefore, I do not find any weight in these submissions of the counsel for the workman, therefore, the same are not accepted.

The Counsel next argued that since the termination of the workman and payment of retrenchment compensation and wages for notice period was required to be paid as coterminus and the Management failed to do that, therefore, the termination is bad in law. It has been discussed above that the Management had done everything to inform the workman that his services were no more required from 29th Feb, 1990 and that the workman could collect the wages for the notice period and the termination compensation from a particular office from 27th Feb., 1990 whereas the termination of his services was to take effect from 29th Feb., 1990. But the workman, by his conduct, did not collect the notice wages and retrenchment compensation from the office of SDO, named in the notice, even when he admitted that he had got the notice, issued by the Management but the service of it he had refused continuously. In view of this it cannot be said that the Management had failed, in his duty, to pay the retrenchment compensation to the workman and the wages for the notice period simultaneous to his disengagement from service. The authority referred to by the Counsel for the workman, reported as 1998(SLR) 77, to my mind, is not helpful to him. The facts of the present case get full support from the judgement of Hon'ble Supreme Court reported as Gurmail Singh V/s State of Punjab, (1991)II LALJ 76.

In view of the discussion made above I am of the opinion that the action of the Management, Beas Project, Bhiwani, in terminating the services of the workman w.e.f. 28th Feb., 1990 was justified and legal, therefore, the workman is not entitled to any relief under law. The reference is answered in these terms.

Before parting it is recorded here that the Management by their own pleadings, admitted that the workman could not be paid the retrenchment compensation and the wages for the notice period, because of his own conduct. In this way they admitted that the workman was entitled to the payment of retrenchment compensation and the wages for the notice period. It would be judicious that they make fresh efforts to make the payments of the dues to the workman. Rather it was required of them to have deposited the dues in this Tribunal to show their magnanimity. Therefore, I direct them to make the payment of these dues to the workman along with interest at the rate of 9% p.a. if the payments are not already made. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDEEP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4590.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1037/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/7/93-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4590.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1037/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B. B. M. B. and their workman, which was received by the Central Government on 7-11-2006.

[No.L-42012/7/93-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 1037/2k5

Registered on 19-09-2005

Date of Decision 09-10-2006.

Ved Prakash S/o Shri Lal Singh, R/o VPO Luhan, Tehsil Bhiwani Khera, Zila Bhiwani, Haryana

Petitioner

VERSUS

Executive Engineer, Stores and Arrears Division, BBMB Bhiwani, Haryana

Respondent

APPEARANCE

For the Workman : Sh. Hardial Singh Hundal Advocate

For the Management : Mr. Sajal Ahluwalia Advocate.

AWARD

The Govt. of India vide their notification No. L-42012/7/93-IR(DU)/(C-II) dated 24th August 1994, referred the following matter for the adjudication of this Court:

"whether the action of the Management Beas Project, Bhiwani, in terminating the service of Shri Ved Prakash w.e.f 28th February, 1990 is just, fair and

legal? If not, to what relief the workman concerned is entitled and from what date?"

After the receipt of the notification, the notice thereof was issued to the parties who appeared through their Counsel and representatives. They filed their respective claims in the shape of statement of claim, written Statement, affidavits of the workman and that of witnesses of the Management. They also placed on record photo-copies of some documents. Both the workman and Mr. D.K Tayal, the witness of the Management appeared to answer the queries put in the cross examination.

In nutshell, the claim of the workman is that he was appointed as Mali on 6th May, 1987 and he continuously worked for the Management till his services were terminated on 28th Feb., 1990, without serving any notice on him. He was also not paid the retrenchment compensation. The Management violated the provisions of Industrial Dispute Act 1947, hereinafter to be referred as "ACT" by retaining the juniors whereas terminated his services and also by making fresh recruitment without offering the workman opportunity to serve. Thus the retrenchment of the workman was bad in law.

The Management has opposed the claim stating that the services of the workman were terminated on the completion of work of Beas Project in terms of Section 25-FFF of the Act, therefore, the workman is not entitled to any relief. Moreover the Project had been transferred to the BBMB and the Beas construction Board is no more in existence. It is further their claim that the workman was given 24 hrs. notice in terms of Sec.25-FFF, by which the workman was directed to collect the retrenchment benefits from the office of SDO Sub-Division, BCB, Bhiwani, but the workman refused to accept the notice and also did not collect the retrenchment benefits. They denied that any of the juniors of the workman was retained and that in all only nine daily wagers were working in civil sub division, in which the workman was engaged and all of them were disengaged due to completion of work, by following the principle of last come first go. They further denied that any fresh recruitment was made after the termination of services of the workman. It is also their case that although the workman was not entitled for compensation, but still the Management offered the same to him; and that since the work of the Project had completed, therefore, not only the daily wagers but also the work charge employees of the Management were retrenched w.e.f., 11th August, 1993.

As stated earlier the workman appeared as a witness in the case on 23rd October, 2002 and on a question from the Management admitted that he had received a notice from the Management, but he had refused to accept the same. In his Claim Petition also he admitted in para 2, that the respondent had served retrenched notice on him on 27th Feb., 1990, but he had not received the same and on 28th February, 1990, he was verbally told that his services are no more required. On record I find a copy of the notice

dated 27th Feb., 1990, bearing No. 2043, issued by Executive Engineer GSS Division, Beas Project, Bhiwani, to the name of the workman. A perusal of photo copy of the notice shows that the Management had informed the workman that since there is reduction of work due to part completion of the project, therefore, the services of the workman were no more required w.e.f. 29th February, 1990. The workman was advised to collect one month's wages in lieu of notice and the amount of retrenchment compensation from the office of SDO, C/W, SD-II, DP Bhiwani. Since the workman admitted that the Management had issued that notice on 27th Feb., 1990, therefore, it cannot be said that the workman was not given notice before terminating his services. In view of that notice the workman could collect his retrenchment compensation and a month's wages in lieu of notice period from the office of SDO, COD, Bhiwani on 27th February, 1990 or atleast on the next day but as he himself stated that he had not received the notice nor the compensation. Therefore, it is because of the conscious act of the workman that the compensation and notice wages could not be paid to the workman as he himself did not receive the same. Whatever was required of the Management to do, they had done it and if the workman did not receive the compensation it was because of his own conduct that he did not receive the same. Therefore, it cannot be said that the Management failed to comply with the provisions of Sec. 25-F of the Act.

The next claim of the workman is that the Management did not follow the provision of Section 25-G & H as they retained the juniors of the workman whereas terminated his services and they also made fresh recruitments. He named one Ram Parsad who had been appointed after his termination. But he failed to produce any evidence to show that any such Ram Pal was appointed after the termination of his services. Mr. D.K. Tayal who appeared as a witness denied any knowledge of the recruitment of the person named Ram Paul. It was the duty of the workman to show that Ram Parsad was appointed by the Management after the termination of service of the workman. The Management has however, claimed that no workman was engaged in the Civil sub-Division in which there were only nine daily wagers and all of them were disengaged on the completion of the work, for which they were engaged. The Management has placed on record a copy of letter dated 9th March 1990, by which it was brought to the notice of the Engineer concerned that out of the nine daily wagers only one Suresh accepted, the notice whereas the other eight refused to accept the same so the notices were sent to them under R/C. This document shows that there were only nine daily wagers working in the Management Division and all of them were given the notices of termination in the manner claimed, but they refused to accept the notices and finally they were issued the notices under R/C. The Management has also placed on record photo-copy of postal receipts by which the

registered notice was sent to the workman in March, 1990. The workman has failed to show as to which of the juniors were retained when his services were terminated. He has also failed to show in which of the division he was appointed. Even he has not given the particulars of the Ram Parshad to make the Management to verify the particulars of such a person. Even in his Claim Petition he did make a vague claim that some persons were engaged by the Management.

The Counsel for the workman has tried to drive the benefit from the wording of the notice dated 27th Feb., 1990, a copy of which is placed on record. He has claimed that as per the notice there was only reduction of the work and not altogether ceasing of the work, as only a part of the Project had been completed and not whole of the work had completed. From the notice, according to him, it appears that the work was still available but despite that the Management terminated the service of the workman. In my opinion the argument is far fetched and cannot be accepted. It cannot be accepted that the intention of the Management was to terminate the services of the workman and leave the Project incomplete. It was the Executive Engineer, a competent authority, who had the authority to decide as to whether he required the services of all the workmen or only few of them. As an appointing authority it was he who was to decide whether the services of the workman were required any more or not. Presuming that the work was still available, it was further required of the workman to show that the work available, could not be done by any other workman. Therefore, I do not find any weight in these submissions of the counsel for the workman, therefore, the same are not accepted.

The Counsel next argued that since the termination of the workman and payment of retrenchment compensation and wages for notice period, was required to be paid as co-terminus and the Management failed to do that therefore the termination is bad in law. It has been discussed above that the Management had done everything to inform the workman that his services were no more required from 29th Feb., 1990 and that the workman could collect the wages for the notice period and the termination compensation from a particular office from 27th Feb., 1990 whereas the termination of his services was to take effect from 29th Feb., 1990. But the workman, by his conduct, did not collect the notice wages and retrenchment compensation from the office of SDO, named in the notice, even when he admitted that he had got the notice, issued by the Management but the service of it he had refused continuously. In view of this it cannot be said that the Management had failed, in his duty, to pay the retrenchment compensation to the workman and the wages for the notice period simultaneous to his disengagement from service. The authority referred to by the Counsel for the workman, reported as 1998(SLR) 77, to my mind, is not helpful to him. The facts of the present case get full support from the

judgement of Hon'ble Supreme Court reported as Gurmail Singh V/s. State of Punjab, (1991) IILALJ 76.

In view of the discussion made above I am of the opinion that the action of the Management, Beas Project, Bhiwani, in terminating the services of the workman w.e.f. 28th Feb., 1990 was justified and legal, therefore, the workman is not entitled to any relief under law. The reference is answered in these terms.

Before parting it is recorded here that the Management by their own pleadings, admitted that the workman could not be paid the retrenchment compensation and the wages for the notice period, because of his own conduct. In this way they admitted that the workman was entitled to the payment of retrenchment compensation and the wages for the notice period. It would be judicious that they make fresh efforts to make the payments of the dues to the workman. Rather it was required of them to have deposited the dues in this Tribunal to show their magnanimity. Therefore, I direct them to make the payment of these dues to the workman along with interest at the rate of 9%p.a if the payments are not already made. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4591.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 623/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/15/91-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4591.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 623/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B. B. M. B. and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-42012/15/91-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT-II CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D.No.623/2k5

Registered on 24-8-2005

Date of Decision 5-9-2006.

Rajiv Kumar S/o Madan Lal C/o Shri Kisan Singh House
No. 35/4, Nangal Township, District Ropar

Petitioner

Versus

Chief Engineer Bhakra Dam, BBMB, Nangal Township

Respondent

APPEARANCE

For the Workman : Mr. R. K Singh Parmar
Advocate.

For the Management : Shri R. C. Attri
Legal Assistant.

AWARD

The reference before this Tribunal, received from Govt. of India vide their notification No.L-42012/15/91-IRDU dated 26th Sep., 1991, is as under :

"Whether the action of the Management of Bhakra Beas Management Board in terminating the services of Sh. Rajiv Kumar w.e.f 30-6-1989 is justified? If not, to what relief the concerned workman entitled?"

The record of the file speaks that on the receipt of the notification, notices were issued to the parties who appeared through their representatives and filed their respective claims, in the form of statement of claim, Written Statement, Rejoinder, and Affidavit of the workman and that of Kulbir Singh, witness of the Management. They also produced photo-copies of the documents they relied upon in support of their respective cases. I also find on record the affidavit of Shri H.K.L Gupta and P.D Bangar. S.D.Os of the Management, but they were not examined as witnesses of the Management. So the workman did not have the chance to test their testimony on the touch stone of cross examination.

The appropriate Govt. has desired to know whether the action of the Management in terminating the services of the workman Shri Rajeev Kumar w.e.f 30th June, 1989, was justified and if not, to what relief the concerned workman was entitled to. The workman in his statement of claim has claimed that he was appointed as skilled labourer on daily wages after an Interview and Trade Test w.e.f. 1st Sep., 1988 and he served the Management upto 31st May, 1989, except for notional break of 15 days. He was posted in the Railway Sub Division of the Management from 15th June, 1989 to 30th June, 1989 and his services were terminated verbally on the last day; that the Management did not maintain the seniority before terminating his services. They retained the juniors who were regularized from 1st May, 1989, whereas the Management neither gave notice of termination to the workman nor paid him the compensation and thereby violated the provisions of Sec. 25-F(a) and 25-F(b) of the Industrial Dispute Act, for

short "ACT." They further violated the provisions of the Act by recruiting fresh hands and without providing opportunity to the workman. Thus they resorted to unfair labour practice. He prayed for his reinstatement in service by declaring his termination as void abinitio and for a direction for payment of full back wages.

The claim of the Management is that the workman is not entitled to any relief, rather the reference is bad since there existed no dispute between the parties nor there was any apprehension thereof. According to them the services of the workman were not terminated nor he was dismissed or discharged. There also arose no question of his retrenchment as the workman himself abandoned the job. Admitting that the workman had served the Management as unskilled Mazdoor on daily wages in the month of Sep., 1988, but he served them intermittently as per the need. They stated that neither the workman retrenched nor any body junior to him was engaged during June 1989, since there was reduction in field staff. It is claimed by them that the deployment in the Management is done as per the seniority maintained in terms of the instructions issued by the Management in reference to the directions of High Court of Himachal Pradesh issued in the case of Ram Piari and others v/s BBMB W/P No. 27 of 1988 and reiterated in W/P No. 274 of 1990 which were also approved by the Hon'ble Supreme Court on 22nd Nov. 1990, in Civil Appeal No. 5635 of 1990. As per the policy the seniority was being maintained at the Divisional Level and the disengagement of a workman was done strictly according to the seniority. The workman stood at serial No. 95 in the seniority list out of which 56 were regularized and thereafter the workman was placed at Serial No. 45. They have further claimed that since the workman did not serve the Management for 240 days 12 months preceding the date of his disengagement, therefore, there was no question of paying him retrenchment compensation. The workman in his statement, before this Tribunal, made on 10th July, 2002, admitted that he had worked for BBMB for 231 days. He further admitted that he was placed in the seniority at Serial No. 95. He further admitted that the Management had sent him a letter under R/C asking him to join the duties, but he had not joined. He further stated that he had the notice from the Management that if he did not join the duties, as was directed, his name shall be deleted from the seniority list.

Mr. Kulbir Singh who appeared as a witness of the Management proved his affidavit and stated that the workman had served the Management upto May, 1989 and since the work in the Bhakra Dam Division Nangal was completed in May, 1989, therefore, the workman had served the Management till then. Thereafter he had served in the Mechanical Division from 15th June, 1989. He denied the knowledge that there was a mass retrenchment in the Mechanical Division in April, May & June 1989. He further stated that the workman had worked intermittently and the days for which the petitioner worked are shown in Exhibit

W-2 which includes the paid holidays and Sundays. He admitted that the workman had served the Management from 1990 to 1998 but stated that the record for that period is not available.

I have gone through the file and have also considered the submissions made by the parties in writings.

After going through the statement of the workman I am of the opinion that his own statement is sufficient to answer the reference received from the appropriate Govt. It is on record that the workman, in his statement, admitted that he had served the Management from September 1988 to May 1989. He further admitted that he had worked for 231 days, but claimed that he had also worked for 16 days in Railway Sub-Division of the Management. He further claimed that he had served for three months in another Division. Thus by his own saying he worked for 231 days in One Division, for 16 days in another Division and for 3 months in the third Division, so he did not serve the Management for 240 days in one Division so as to claim the seniority in service in terms of the judgment of the Hon'ble High Court of Himachal Pradesh, in the case of Ram Piari (Supra). The workman thus has failed to show that he had served the Management for 240 days continuously preceding 12 months from the date of termination of his services. The claim of the workman that the Management did not observe the provisions of Sec. 25-F of the Industrial Disputes Act 1947 before terminating his services is not available to him.

The workman has also claimed the benefit of Sec-25-H of the Act claiming that the Management had recruited fresh hands after the termination of his services whereas he was not given chance to work for the Management. When it came to his statement he admitted that the Management had issued the notices asking him to join the duties but he had not joined the duties despite getting the notice under R/C. He further admitted that the Management had further warned him that in case he did not join the duties his name shall be deleted from the seniority list. In view of his admission I fail to understand how he is claiming that the Management did not give him the chance to work and had recruited fresh hands after his discharge from service. In view of the judgment of Hon'ble High Court of H.P in case Ram Piari (Supra) which has the seal of Apex Court of the country the case of BBMB v/s Presiding Officer being CWP No. 10399 of 2003 decided by Punjab and Haryana High Court, is of no help to him, Since he himself did not report for duty despite notices of management to him under R/C. Therefore, it is to be presumed that he was employed gainfully and in a better position, than he could be in the employment of the Management; that is why he did not join the duties with the Management and for that reason the benefit of Section-25-H is not available to him.

In view of the discussion made above it is held that the Management of BBMB did not violate the law nor they were unjustified while terminating the services of the

workman on 30th June, 1989. There is ample evidence on record to say that in fact it was a case of relieving of workman after the work for where he was engaged, got Complete. They further did not violate the provisions of Section 25-H of the Act as it has been admitted by the workman that he was called for re-engagement but he himself did not report for the duty. In the circumstances the workman is not entitled to any relief. The award is passed in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4592.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 259/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/438/99-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4592.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 259/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No.L-40012/438/99-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D.No 259/2k5.

Registered on 06-03-2000

Date of Decision 07-09-2006.

Shri Om Prakash S/o Shri Buta Ram C/o Shri N. K. Jeet,
President, Telecom Labour Union, Mohalla Hari Nagar,
Lal Singh Basti Road, Bhatinda (Punjab)

... Petitioner

Versus

The General Manager, Department of Telecom, Bhatinda

... Respondent

APPEARANCE

For the Workman : Mr. N.K. Jeet
For the Management : Mr. G.C. Babbar
Advocate

AWARD

The workman continues to be absent. He was summoned, a number of times and on 14th July, 2006 fresh summon was sent to him under R/C, vide Postal Receipt No. 206. The R/C carrying the summon has not been received back till date, nor the workman is present. It shows that the R/C carrying the notice has been received by the workman, but he has not appeared even after the expiry of more than one month of issuance of the notice. It further shows that he is left with the no interest in the case otherwise he would have appeared.

The Govt. of India vide their notification No.L-40012/438/99/IR(DU) dated 17th Feb; 2000, referred the matter for the adjudication of this Tribunal and desired to know whether the action of the Management of General Manager Telecom, Ferozepur in terminating the services of Shri Om Parkash S/o Buta Ram was legal and Justified? If not to what relief the workman is entitled to and from which date? On a notice of this reference the parties appeared. The workman filed his Claim Petition whereby he claimed that he was engaged as Despatch Clerk in the Office of SDO Phones, Malout on 1st Feb., 1998, on a monthly salary of Rs. 2138/-. that the Management disengaged him from service w.e.f 5th March, 1999. The Management denied the claim of the workman. It is their case that they had floated a tender for the supply of labour for the emergency work and the same had been allotted to a contractor, who used to supply the labour to them. According to them the workman was neither engaged by them nor any wages were paid to him, therefore, the question of his termination by the Management did not arise. The workman in his rejoinder reiterated the claim, as made out by him in the Statement of Claim. He also tendered his own affidavit and that of Harphool Singh & Vinod Kumar, whereas the Management tendered the affidavit of their SDO(P)MCT, Pritpal Singh.

The case was being listed for the evidence of the workman when he absented from Court Appearance. Till date neither he has appeared as a witness nor has produced any of his witnesses so as to support his case as made out in the Statement of Claim and in the Affidavits of his witnesses. The claim of the workman, therefore, has remained unsubstantiated and he is the loser in the process. On record, I do not find any evidence to show that the workman was engaged by the Management as Despatch Clerk in the office of SDO Phones, Malout and he served the Management from 1st Feb., 1998 till 5th March, 1999. The affidavit tendered by the workman cannot be read since the Management did not have opportunity to test the veracity of the witness of the workman. The workman

is, therefore, entitled to no relief. The reference replied in the terms that there is no evidence to hold that the Management had engaged the workman and then terminated his services and the said termination was illegal and unjustified. The award is passed. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4593.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 357/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/369/2000-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4593.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 357/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/369/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D.No 357/2k5.

Registered on 16-08-2005

Date of Decision 31-08-2006.

Shri Jameel C/o Shri R. K Sharma, House No. 372, Sector-20-A, Chandigarh

...Petitioner

Versus

The Chief General Manager, Telecom, Punjab Circle,
Sector-34, Chandigarh.

...Respondent

APPEARANCE

For the Workman : Mr. Tanvad Ali Khan

For the Management : Mr. G. C. Babbar,
Advocate

AWARD

The workman continues to be absent. Management appears through Counsel.

The record of the file reads that the workman has not appeared in this Tribunal right from the day the case was received from CGIT-cum-Labour Court, Chandigarh. Even in the previous Court he did not appear in person and only his AR represented him. On 24th April, 2006, fresh notice under R/C was issued to the workman under Postal Receipt No.256 in compliance to the Court Directions dated 19th April, 2006, till 10th July the next date fixed in the case neither the R/C carrying the notice was received back nor the workman appeared. Since the statutory period to presume the service of the workman was over, therefore, it was taken that the workman has received the notice but he has opted not to appear. The Court further showed indulgence and waited for him till today but he has not appeared. This shows that he has lost interest in the case.

On record there is Claim Petition of the workman and the reply of the Management. The workman has also filed the rejoinder and his affidavit which has been controverted by the Management by the affidavit of their witness. The parties have not let any evidence and, therefore, they have not got the chance to test the evidence of each other on the touchstone of cross examination. Since the parties have alleged facts and there is no meeting of their mind on any point, therefore no reliance can be placed on the facts, in the absence of their evidence. On record I, therefore, do not find any evidence to find out that the workman was engaged by the Management through a contractor M/s. Gupta on 1 st Jan., 1996 and they disengaged the workman from services w.e.f. 27th Feb. 1999 and the said order of the Management was unjust and illegal for want of evidence the reference is answered against the workman holding that the workman has failed to show that it was the Management which disengaged him on 27th Feb. 1999, without following the provisions of Industrial Dispute Act and, therefore, the order was bad in law, unjust and illegal let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4594.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 652/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/540/2000-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4594.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 652/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/540/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 652/2005

Registered on 24-08-2005

Date of Decision 31-08-2006

Shri Sarabjit Singh S/o Shri Bakshish Singh, C/o Shri N.K. Jeet, 27349, 1st Singh Basti Road, Bhatinda (Punjab)

... Petitioner

Versus

The General Manager, Telecom, Amritsar (Punjab),
143001

... Respondent

APPEARANCE

For the Workman : Mr. N.K. Jeet

For the Management : Mr. G.C. Babbar Advocate.

AWARD

The workman is not present even today. management appears through Counsel.

It is on record that the workman has not appeared in this Tribunal on any date. Even before the transfer Court he did not appear in person on any day and it is only the presence of his representative, N.K. Jeet which is recorded. This Tribunal issued repeated notices to the workman on the only address available, but he did not appear either in person or through his representative. In the reference he gave his address C/o Shri N. K. Jeet and there is no other address available on which he could be served. Shri Jeet has stopped appearing in the case. This all shows that the workman is no more interested in putting up his case before this Tribunal.

On record there is only claim petition the reply of the Management and the rejoinder filed by the workman. The claim made by the workman has been denied by the Management in totality. Except this there is no evidence on record. Therefore, I do not find any evidence on record to show that the workman was engaged by the

Management on 15th March, 1993, on a salary of Rs. 2138 and his services were terminated on 15th May, 1996. Therefore, it cannot be said that there was order of termination of services of the workman by the Management and the same was or was not just and legal. The award is, therefore, passed in these terms. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4595.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 630/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/7/2001-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4595.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 630/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 7-11-2006.

[No. L-40012/7/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 630/2005

Registered on 24-08-2005

Date of Decision 7-9-2006

Shri Ashok Kumar C/o Shri R.K. sharma,
H. No. 372, Sector-20-A,
chandigarh-160001

... Petitioner

Versus

The Chief General Manager, Telecom,
Punjab Circle, Sector-34,
Chandigarh-160001

... Respondent

APPEARANCE:

For the Workman : Mr. R.K. SHARMA &
OTHERS
Authorized Representatives

For the Management : Mr. G.C. Babbar Advocate.

AWARD

The workman is not present. He was issued notice R/C under Postal Receipt No. 221 dated 14th July, 2006. So far neither the workman has appeared nor the R/C carrying the notice has been received back unserved. It shows that the workman has received the notice, but he has decided not to come to the Court. He is, therefore, put Ex-parte. The Management is present through Counsel.

The Govt. of India vide notification No.L-40012/7/2001-IR (DU) dated 12th April, 2001. desired to know whether the action of Chief General Manager, Punjab Circle, Chandigarh in terminating the services of the workman who was engaged through a Contractor Nagpal w.e.f. 27th Feb., 1999, was just and legal. If not to what relief the workman is entitled to.

In his claim statement the workman has made a claim that he was appointed as Peon on 24th August, 1997 by the Management and his services were terminated on 27th Feb., 1999 without following the provisions of Industrial Dispute Act (in short Act). The Management has denied the claim of the workman. It is submitted by them that they had given the job of providing work force to a contractor and they had not engaged the workman.

After filing his affidavit and rejoinder, the workman stopped coming to the Court in rebuttal the Management has also filed the affidavit of their witness. The workman has not appeared as a witness and the Management is, therefore, not provided with the opportunity to cross-examine the workman. In the absence of this, the affidavit filed by him cannot be treated to have been proved. Thus I find that the claim made by the workman has been denied by the Management and there is no evidence on record to support the claim made by him. In this situation there is nothing to show that the workman was engaged by the Management and his services were terminated by the Management without following the provisions of Act. The workman is, therefore, not entitled to any relief.

The award is passed. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4596.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक

अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 314/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/101/2000-आई आर(डी यू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4596.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 314/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 7-11-2006.

[No. L-40012/101/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE**CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 314/2005

Registered on 12-08-2005

Date of Decision 7-09-2006

Shri Baljit Singh C/o Shri N.K. Jeet, President telecom labour Union, Mohalla Hari Nagar, Lal Singh Basti Road, Bhatinda (Punjab)

...Petitioner

Versus

The General Manager, Telecom,
Hoshiar Pur (Punjab)

.. Respondent

APPEARANCE:

For the Workman : Mr. N.K. Jeet

For the Management : Ms. Deepali Puri Advocate.

AWARD

The workman is not present. He was also not present on the last date. He has not produced any evidence despite directions.

The Govt. of India desired to know whether the Management had disengaged the workman, engaged through Contractor Ashok Kumar, on 1st March, 1999, if so whether their action was legal and justified. If not what relief the workman is entitled to the workman has claimed that he had been appointed in the Urmur on 1st August, 1997 on a monthly wages of Rs. 2138 per month and his services were terminated by the Management on 28th Feb., 1999.

The Management has denied this claim. They have placed on record a copy of the agreement and that of the terms and conditions they have also filed the affidavit of their witness. Bhupinder Singh whereas the workman has filed his affidavit. The Management has totally denied the claim of the workman. It is stated by the Management that the workman was engaged through a contractor and in the absence of necessary party the reference is not maintainable.

On record, I do not find any evidence to support the claim of the workman. The workman has failed to produce any evidence in support of his claim. Thus it cannot be said that the Management had engaged the workman and they terminated his services without following the provisions of the law. On record, I do not find any evidence to show that the workman was engaged by the Management on 1st August, 1997, and his services were terminated on 28th Feb., 1999, without following the law as laid down in the Industrial Dispute Act 1947. The workman is, therefore, not entitled to any relief. His claim is rejected. The award is passed in these words. Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4597.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 260/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/401/2000-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4597.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 260/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/401/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 260/2k5

Registered on 07-04-2001

Date of Decision 9-09-2006

Shri Mohinder Singh S/o Shri Gainda Singh, C/o
Shri N.K. Jeet, 27349, Lal Singh Basti Road, Bhatinda (Punjab)

...Petitioner

Versus

THE GENERAL MANAGER, TELECOM, JALANDHAR
CITY.

... Respondent

APPEARANCE:

For the Workman : Mr. N.K. Jeet

For the Management : Mr. G.C. Babbar Advocate.

AWARD

The workman continues to be absent. On 16th March, 2006, Mr. N.K Jeet who had been appearing for the workman stated that he has no instructions to appear in the case. He further stated that he has no other address of the workman. On 31st March, 2006, Mr. R.P Rana, an associate of Mr. N.K Jeet stated that he will inform the workman about the date fixed. But neither the workman has appeared nor anybody else on his behalf. It was in these circumstances fresh notice was sent to the workman under R/C vide Receipt No.208 dated 14th July, 2006 on his residential address. So far neither the R/C carrying the notice has been received back nor the workman has appeared although more than one and a half month has passed by. This shows that the workman is not interested to prosecute his case.

The Government of India has desired to know vide their reference No. L-40012/401/2000/IR(DU) dated 1st Feb., 2001 that whether the action of the Management of General Manager, Telecom Jalandhar in terminating the services of Mohinder Singh S/o Gainda Singh was just and legal? If not, to what relief the workman is entitled to?

The workman in his statement of claim has stated that he was appointed as Security Guard by the management under SDOT Phillaur on a monthly salary of Rs. 2138 and he served the Management from 5th Feb., 1998 till 16th April, 1998. The Management in their Written Statement has denied the claim of the workman. It is stated by them that the workman was neither appointed nor his services were terminated by the Management. According to them the labour, for the emergency work, used to be supplied by a Contractor who had been allotted the contract by the Management. They have supported their claim with the affidavit of their SDT(G) Mr. V.K Pabby. Thus the Management has totally denied the claim of the workman.

Although the workman filed the rejoinder, but he did not produce any proof in support of his claim. He has also not come in the witness box to support his claim. Thus

there is no evidence on record to show that the workman was engaged by the Management on 5th Feb., 1998 and his services were terminated by them without following the provisions of Industrial Dispute Act 1947. The reference is answered against the workman holding that he is not entitled to any relief. The award is passed in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4598.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 689/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/39/2002-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4598.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 689/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/39/2002-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 689/2005

Registered on 25-08-2005

Date of Decision 13-10-2006

Shri Satnam Singh S/o Shri N.K. Jeet, 27349, Lal Singh Basti Road, Moh. Hari Nagar, Bhatinda (Punjab)

... Petitioner

Versus

THE GENERAL MANAGER, TELECOM,
DEPARTMENT OF TELECOM, AMRITSAR (PUNJAB)

... Respondent

APPEARANCE:

For the Workman : Mr. N.K. Jeet

For the Management : Shri G.C. Babbar Advocate.

AWARD

The workman continues to be absent. Management appears through Counsel.

After observing that the workman has not appeared in this Tribunal on any date fixed and his representative stated no instructions on the last date of hearing the Court directed that the workman be summoned by notice under R/C directing him to appear and file his affidavit. The workman has not appeared even today and the notice sent to him on 1st August, 2006 under Postal Receipt No. 1023 has not been received back even after the expiry of more than two months. This gives reasons to believe that the workman had received the notice but he is not present. This further shows that he has lost interest in the case.

This Tribunal received reference from the appropriate Govt. vide their No. L-40012/39/2002IR(DU) dated 24th July, 2002 by which the Central Govt. desired to know whether the action of the Management in terminating the services of Shri Satnam Singh, workman w.e.f. 28th Feb. 1999 was just and legal and if not to what relief the workman was entitled to and from which date. The notice of the reference was given to the parties. The workman appeared through Shri N. K. Jeet whereas the Management appeared through Counsel. The workman filed the Claim Petition whereas the Management filed their reply and affidavit or their witness. Thereafter the case was being listed for the affidavits of the parties and as is stated earlier after filing the rejoinder the workman absented from Court appearance. He has not come forward to support the claim made by him in the statement of claim and rejoinder. This has also resulted in the non-providing of opportunity to test the claim of the workman by cross-examination. The claim made by the workman, therefore, has not been supported by any evidence nor the statement made by the workman in the statement of claim and the rejoinder can be read against the Management for the reason that the Management has not got the chance to cross examine the workman with regard to his case.

On record I do not find any evidence to show that the Management had engaged the workman in the office of SDO(T) Tarantaran from 1st March, 1994 to 28th Feb., 1999 on a salary of Rupees 218 and his termination from service w.e.f. 28th Feb. 1999 was illegal and unjustified. The Management has denied the engagement of the workman stating that the workman was never engaged by them, therefore, his claim is without any justification. Since the workman has failed to support his claim by any evidence much less cogent evidence therefore he is not entitled to any relief. His claim is, therefore, rejected.

In view of the discussion made above the reference is answered against the workman holding that he is not entitled to any relief. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4599.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 313/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/67/2000-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4599.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 313/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/67/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 313/2005

Registered on 12-8-2005

Date of Decision 7-9-2006

Shri Harpal Singh C/o Shri N. K. Jeet, President,
Telecom Labour Union, Mohalla Hari Nagar, Lal Singh
Basti Road, Bhatinda (Punjab)

...Petitioner

Versus

The General Manager, Department of Telecom,
Hoshiarpur

...Respondent

APPEARANCE:

For the Workman : Mr. N. K. JEET

For the Management : Ms. Deepali Puri, Advocate.

AWARD

The workman is not present. Management appears through Counsel.

The notice to the workman was issued under R/C Postal Receipt No. 139 dated 11th July, 2006. More than 30

days have gone by, but neither the R/C carrying the notice has been received back unserved nor the workman has appeared today. Even on the last date, he did not appear in person and was represented by his representative who has also chosen not to come today. The presumption is that the workman has received the notice, but he is not present. This further shows that he has lost interest in the case.

The reference in this case was received from the Govt. of India for adjudication whether the action of the Management in terminating the services of the workman engaged through a Contractor Ashok Kumar Sharma w.e.f. 1st March, 1999, was legal and justified, if not, to what relief the workman is entitled to. The workman claimed that he was engaged as a workman in the office of SDOT Hoshiarpur on a salary of Rs. 2138/- w.e.f. 13th Jan., 1997, and his services were terminated on 28th Feb., 1999 in violation of provisions of Industrial Disputes Act, in short "Act". The Management has denied the claim of the workman. They have also placed on record copies of the agreements. They have also filed the affidavit of their witness Ashok Kumar, whereas the workman has filed his affidavit and the rejoinder, but he has not come in the witness box to admit or deny the contents of his Claim Petition and that of his affidavit. I, therefore, do not find any evidence on record to show that the Management had terminated the services of the workman on 28th Feb., 1999, without following the provisions of the Act and the rules. The workman is, therefore, entitled to no relief. The award is passed. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4600.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1100/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/329/2001-आई आर(डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4600.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1100/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Telecom Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/329/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 1100/2005

Registered on 21-9-2005

Date of Decision 9-10-2006

Shri Sat Pal, S/o Shri Ram Parshad, Driver, V& PO, Sahapur, Ambala (Haryana)

Petitioner

Versus

The Executive Engineer (Civil), Telecom, Civilian Division
No. 1, Ambala Cantt. (Haryana)

Respondent

APPEARANCE

For the Workman : Mr. R. P. Rana, Advocate

For the Management : Sh. G. C. Babbar,
Advocate.

AWARD

This is a reference under Section 10 of the Industrial Disputes Act, 1947, hereinafter to be referred as "Act" which reads as under :

"Whether the action of the Management of Telecom Department in terminating the services of Shri Sat Pal, Ex-Jeep Driver is just and legal? If not, to what relief the workman is entitled to and from which date?"

After the reference was received, the notice thereof was issued to the parties who appeared through their representatives and Counsel. The workman filed the Claim Petition and the Management reply thereto. The workman filed his affidavit in support of his pleadings whereas the Management filed the affidavit of Shri. V. K. Garg, Executive Engineer, in support of their Written Statement. Parties also placed on record copies of a number of documents. The workman appeared as a witness whereas the Management examined Shri V. K. Garg as the witness of the Management.

As made out, from his statement of claim, the case of the workman is that he was appointed as Jeep Driver by the Management on 21st Jan., 1991 and he served the Management in that capacity till May, 1995 in the office of Executive Engineer (C), Ambala when he was transferred to the office of Superintending Engineer of the Management. He served the Management continuously till 3rd March, 2001. Lastly he was drawing a salary of Rupees 950/- plus DA, which was later on revised giving retrospective effect from January, 1996 and thus he was drawing a salary of Rs. 3050/- plus allowances at the time he last served the Management in 2001. He was also issued I D Card No. 102, by the Management; that in the year 1997 the Management issued an advertisement calling application for the post on which he was working. Against that notification he approached the Central Administrative Tribunal which directed that the Management shall not dispense with the services of the workman either by engaging a driver through a contractor or on daily wages nor shall make such type of engagement. They further directed that the workman shall file a representation to the Management seeking the relief of regularization as due to him under rules. The workman filed a representation before the Management but he received no reply to that. Meanwhile he met with an accident on 6th January, 2000 and remained under treatment. He was declared fit for duty on 5th March, 2000 and when he reported for duty but he was not allowed to join the duties and was told that an outsider has been appointed at his place.

The workman claims that his termination was bad in law as he was not told as to why his services were terminated without chargesheet or inquiry. He also not paid any compensation under Section 25-F of the Act. He prayed for declaring the termination of his services as bad in law and requested for grant of interim relief of reinstatement on the job.

The Management has opposed the claim of the workman on the grounds that the workman was engaged on need basis; that the Management initiated processes for regular appointment a driver and after following the same, a driver, on regular basis, was appointed on the post, on whose joining there remained no need for the services of the workman; therefore, he was relieved. The Management had followed that course in pursuance of the orders passed by the CAT, Chandigarh. It is further their submission that the Management had considered the workman for regular appointment alongwith other candidates but he was not found suitable for regular appointment, although the workman had not filed any representation despite the directions of the CAT, Chandigarh. They reiterated that since a regular appointee had joined on the post therefore, there was no requirement of services of the workman; hence he was not engaged. They have prayed for dismissal of the claim of the workman with costs. The Management also took the preliminary

objections to the maintainability of the reference stating that since the workman had approached the CAT by OA No. 1173/HR/97, which was decided on 7th September, 2000, therefore, he cannot re-agitate the same matter by present reference. They admitted that the workman was initially engaged on need basis and he worked with the Executive Engineer (C), and later on he was engaged with Superintending Engineer (C) Ambala Cantt. They admitted that the workman was issued Identity Card, so as to facilitate him to enter the departmental premises like Telephone Exchange. However, his engagement/recruitment was not through the Employment Exchange nor it was as per the employment rules. He was already 42 years of age at the time of his initial engagement, therefore, he was ineligible for regular appointment. They also alleged that the provisions of the "Act" are not applicable to the case of the workman and the workman is not entitled to any relief.

The claim of the workman is that he had served the Management from 21st January, 1991 till May, 1995, as Jeep Driver, in the office of Executive Engineer (C), Telecom, Ambala and from May 1995, his services were utilized by the Management in the office of Superintending Engineer (C), Ambala Cantt., and that he was initially engaged on a salary of Rs. 950/- Plus DA and on the revision of Grades, he was paid the salary at the rate of Rs. 3050/- plus allowances w.e.f. January, 1996. The Management, in their reply, admitted that the workman had been engaged initially on need basis and he worked with Executive Engineer (C), and was later on engaged in the office of Superintending Engineer (C) Ambala Cantt. The Management also admitted that the workman was issued I-Card so as to facilitate him to enter the departmental premises like Telephone Exchanges. Thus there is no dispute between the parties about the engagement of the workman with the Management from January 1991 to January, 2000. The workman has further claimed that on 6th January, 2000 the met with an accident and remained under treatment. He was declared fit for duty on 5th March, 2000, but when he went to the Management to report for duty, he was not allowed to join and was told that a new incumbent has joined at his place. Thus the Management virtually disengaged the workman from service w.e.f. January, 2000.

Mr. V. K. Garg, who appeared as witness for the Management admitted in his statement that the workman had met with an accident in December, 2000. He further admitted that on 4th March, 2001 when the workman visited the office of Management he was told that regular driver has been appointed who has joined the duties. He admitted that the workman was not issued any notice before the termination of his services. There is also no evidence produced against the claim of the workman that the Management had not been paid the salary for the notice period nor the compensation in terms of Section-25-F of the Act. The Management has opposed this claim of the

workman on the grounds that the appointment of the workman was irregular, without following the procedure prescribed for appointment; and that he was engaged on need basis and when a regular driver was appointed, there remained no necessity for his engagement, therefore, he was not engaged. Relying upon the authority of Punjab and Haryana High Court reported as Headmaster, Govt. High School, Behrana V/s Ajit Singh and others reported as 2004(1) Labour and Service Judicial Reports Page 288 it is argued by the Counsel for the Management that since the engagement of the workman was not under rules, rather the engagement was fraudulent, he cannot claim the relief of reinstatement in service even if his services were terminated without complying with the provisions of Sections 25-F to G of the "Act". They have also relied upon the judgment of the Constitutional Bench of apex court in the case of Secretary, State of Karnataka and others V/s Uma Devi and others bearing civil appeal Nos. 3596-3612/1999 and decided on 10th April, 2006.

I have considered the submissions made by the counsel for the Management and have also gone through the authorities referred to by him.

The reference which is under consideration of this Tribunal is to find out whether the termination of services of the workman Sat Pal, Ex-Jeep Driver of the Management was just and legal and if not, to what relief he is entitled to and from which date? The evidence produced by the parties clearly show that the workman had continuously worked for the Management, though he served in two offices, from 21st January, 1991 and he served the Management initially with the Executive Engineer (C) Ambala Cantt. and then with Superintending Engineer (C). The Management has not disputed about the period during which the workman had served the Management. They further admitted that the workman had met with an accident in December, 2000. It is also admitted by them that on 4th March, 2001, when the workman visited the office of the Management, he was told that a regular driver has been appointed at his place. In the absence of any evidence produced and the denial to the claim of the workman by the Management it has to be taken the claim of the workman, as true that the workman had served the Management continuously from 21st January, 1991 till 6th December, 2000, the day when met with an accident. It is also admitted by the Management that they had not issued any notice to the workman before disengaging him from service nor they had paid the wages for the notice period, and the retrenchment compensation. They have only taken the shelter of the judgments referred to above, to claim that since the appointment of the workman was without following the service rules, so his appointment was against the provisions of the Constitution of India. Moreover, the workman being over aged, even at the time of initial recruitment, he could not claim regularization in service nor he was found fit for regular appointment, at the time

the Management had processed the case for regular appointment of a driver, therefore, the has no claim to make.

The provisions of Section 25-F of the Act were introduced in the year 1953 with a special objective in mind realizing the position that an employer could not be expected to carry the economic dead weight of surpluses of Labour, the legislative provided for the compensation under the Section to soften the rigour of hardship resulting from an employee being thrown out of employment though for no fault of his. The right created by this action was based on the ground of humane public policy and on the consideration that in -voluntary unemployment causes dislocation of trade and industry and may result in general economic insecurity. The objective was approved by the Supreme Court of India in the cases of Parry and Co. Ltd. V/s P.C. Paul (1970) 2 LLJ 429 & Associated cement companies V/s their workmen, (1960) 1 LLJ Page 1. Therefore, the objective of paying the retrenchment compensation to a workmen, proposed to be terminated and give him notice telling him that his services will be no more required for such and such reason, was to prepare him to look for another employment and to sustain with the compensation provided till he finds another employment so that his family did not suffer.

I understand that the workman could not seek regularization in service for the reason that he was already over-aged on the day he first entered the service of the Management, but the service rules do provide the discretion to the Appointing Authority to relax the rules with regard to the prescribed age for appointment upper or lower. Since the Management considered the case of workman and did not recommend him for regular appointment even when he had not applied for the post it has to be taken that the competent authority did not think it proper to relax the rules regarding the age of the workman so as to make him eligible for regular appointment. But when the workman had continuously served the Management for more than 240 days, on the day he was virtually disengaged from service i.e. on 6th December, 2000, he was entitled for the benefits under Section 25-F of the Act. In my opinion the law laid down by Punjab and Haryana High Court in the case of Headmaster, Govt. High School, Behrana (Supra) is not helpful to the Management as their Lordship did not made it obligatory on the Management to refuse reinstatement in service in case where the appointment was a back door entry like in the present case. Moreover, they did not hold that in such a case the workman is not entitled to monetary benefits flowing from the provisions of Section 25-F. What they discarded was reinstatement in service. This authority also fades away in the face of the judgment fo the Constitution Bench in the case of Secretary, Karnataka and others v/s Uma Devi (Supra). In that case also the apex court did not say that the benefits flowing from Section 25-F of the Act could not be available in the case of appointments made against the set procedure as

their Lordship did not consider this provision quo the issue before them under the Constitution of India. This may be because their Lordship were aware of the fact that it is not only the workman but whole of his family which suffers on the sudden disengagement of their Bread earner and that is why they did not say that the non-compliance of Section 25-F of the Act will not effect in the case of the Management where the engagement was irregular and against the provisions of the law and procedure.

In view of the discussion made above I am of the opinion that the Management failed in its duty, at the time of disengagement of the workman by not following the provisions of Section 25-F of the Act. Thus the disengagement of the workman, though was, as per the Management, on an occasion of joining of the regular appointee was bad in law. The disengagement of the workman is, therefore, quashed and he is treated to be in service as if there was no disengagement. The workman has claimed that he has remained without job after his disengagement. He has further claimed, in his statement, that he is not getting any job and is living on the income from sale of milk and the income of his son which is 1500/- Rupees a month. He also claimed that he was not employed anywhere after his disengagement. There has come no evidence in rebuttal to this claim of the workman. It has, therefore, to be accepted that the workman was not a gainfully employed after his disengagement by the Management. But it can also not be accepted that he remained completely without work and source of income. I am, therefore, of the opinion that the workman is entitled to back wages to the tune of 50%. He will also be entitled to other benefits which he would have got what for the order of his disengagement. The Management is directed to pay him the back wages and other benefits within three months from the date of enforcement of this award failing which the workman shall also be entitled to interest on back wages at the rate of 9% p. a. The reference is answered. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

कै.आ. 4601.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर-संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1050/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/426/2000-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4601.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1050/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 7-11-2006.

[No. L-40012/426/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kudip Singh

Case No. I.D. No. 1050/2k5

Registered on 19-9-2005

Date of Decision 3-10-2006

Vinod Kumar

S/o. Late Shri Pritam Chand

R/o. Village Kot, PO : Nadaun,

Hamirpur (District)

.....Petitioner

Versus

Sub-Divisional Engineer,

Telecom Project,

Hamirpur (District)

.....Respondent

APPEARANCE

For the Workman : Shri H.C. Arora
AR

For the Management : Mr. K.K. Thakur
Advocate.

AWARD

The workman continues to be absent. Management appears through Counsel.

Finding at the workman is not appearing since long, the Tribunal directed that a notice under R/C be sent to the workman and it was sent under a R/C, Postal Receipt No. 2093 dated 24th August, 2006. More than 30 days have passed by, but neither the workman has appeared nor the R/C carrying the notice has been received back so far. It raises the presumption that workman has received the notice, but he is not present, and that the workman is no more interested in prosecuting the reference.

On record there is claim petition, Written Statement of the Management and the affidavit of Ram Pal, the Divisional Engineer of the Management. The workman has not supported his pleadings with any evidence much less his affidavit. Against this the Management has not only

denied the claim of the workman, in their Written Statement, but have also supported their pleadings with affidavit of their Divisional Engineer.

On record I do not find any evidence to support the claim of the workman. The workman himself has not appeared as a witness, to admit or deny the claim, made by him in these proceedings. Therefore, his claim has remained unsubstantiated. As such I do not find any evidence on record to show that the Management had engaged the workman and they terminated his services through the Sub-Divisional Engineer Hamirpur w.e.f. March, 1998 and their action was illegal and unjustified. As such the award is passed against the workman holding that he is not entitled to any relief. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4602.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर-संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 555/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/47/2001-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4602.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 555/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/47/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kudip Singh

Case No. I.D. No. 555/2k5

Registered on 23-8-2005

Date of Decision 27-9-2006

Krishan Kumar
S/o. Shri Sheeta Prasad,
House No. 659-B,
Sector-46-B,
Chandigarh

.....Petitioner

Versus

The Chief General Manager,
Telecom,
Punjab Circle, Sector-34,
Chandigarh

.....Respondent

APPEARANCE

For the Workman : Mr. Tanved Ali Khan
AR
For the Management : Mr. G.C. Babbar
Advocate.

AWARD

The workman is not present. On the last date of appearing also he did not appear.

On his behalf Mr. A.K. Batra appeared and sought time to file authority letter of the workman. Today he has stated that he has no instructions to appear in the case. Thus the workman is absent since last date. The next date in case was fixed for 20th July, 2006 in presence of the workman on 18th April, 2006; therefore, he had the notice of the date fixed but despite that he did not appear on 20th July, 2006 nor today. It is to be taken that the workman is not present despite due notice, therefore, the case is being disposed of in his absence in these circumstances.

On record there is claim petition, the reply of Management, the affidavit of workman and that of the witness of Management. The workman had claimed that he had served the Management as Cable Jointer w.e.f. 2-02-1996 upto 19-02-1999 when his service was terminated; that he had served the Management continuously for more than 240 days and Management terminated the service without following the provisions of Industrial Dispute Act, 1947.

The Management has stated in the reply that the workman was not engaged by the Management nor his services were terminated by them; that Management had entered into an agreement with a contractor who provided workforce to the Management. Thus the claim made by the workman, in his statement of claim and the affidavit, has been denied by the Management in the written statement and affidavit of their witness. Since the workman has stopped appearing in the case and the parties did not get the chance to test the veracity of the sworn testimony of witnesses of the parties, therefore no relief can be granted to the workman. Even otherwise except the pleadings of the parties, there is no evidence on the record to show that the workman had served the Management and his services were terminated without following the provisions of

Industrial Dispute Act 1947. He is, therefore, entitled to no relief. This answers the reference received from Govt. of India vide their No. L-40012/47/2001/IR(DU) dated 15th May, 2001. The award is passed against the workman. Let a copy of this award be sent to the appropriate Govt. for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4603.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर-संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 561/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/265/2000-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4603.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 561/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 7-11-2006.

[No.L-40012/265/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 561/2005

Registered on 23-08-2005

Date of Decision 27-09-2006

Balbir Singh

S/o. Shri Parkash Singh

R/o. Village P.O. Manauli,

Tehsil-Mohali,

Ropar (Punjab)

.....Petitioner

Versus

The General Manager,

Telecom,

Sector-18,

Chandigarh

.....Respondent

APPEARANCE

For the Workman : Mr. Tanvad Ali
AR
For the Management : Mr. G.C. Babbar
Advocate.

AWARD

The workman is not present. On the last date of hearing also he did not appear. On his behalf Mr. A.K. Batra appeared and sought time to file authority letter of the workman. Today he has stated he has no instructions to appear in the case. Thus the workman is absent since last date. The next date in case was fixed for 20th July, 2006 in presence of the workman on 18-04-2006, therefore, he had the notice of the date fixed, but despite that he did not appear on 20th July, 2006 nor today. It is to be taken that the workman is not present despite due notice, therefore, the case is being disposed of in his absence in these circumstances.

On record there is claim petition, the reply of Management, the affidavit of workman and that of the witness of Management. The workman has claimed that he had served the Management as workman with effect from 2nd May, 1994 upto 27-2-1999, when his services were terminated; that he had served the Management continuously for more than 240 days and Management terminated the service without following the provisions of Industrial Dispute Act, 1947.

The Management has stated in the reply that the workman was not engaged by the Management nor his services were terminated by them; that Management had entered into an agreement with a contractor who provided workforce to the Management. Thus the claim made by the workman, in his statement of claim and the affidavit, has been denied by the Management in the written Statement and affidavit of their witness. Since the workman has stopped appearing in the case and the parties have got no chance to test the veracity of the sworn testimony of witnesses of the parties, therefore no reliance can be placed on that evidence. Except the pleadings of the parties is no other evidence on the record to show that the workman had served the Management and his services was terminated by the Management without following the provisions of Industrial Disputes Act, 1947. He is, therefore, entitled to no relief. The award is passed against him. The reference received from Govt. of India vide their No. L-40012/265/2000/IR(DU) dated 29th August, 2000 stand answered. Let a copy of this award be sent to the appropriate Govt. for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4604.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार

विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 692/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/59/2002-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4604.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 692/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/59/2002-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 692/2005.

Registered on 25-08-2005.

Date of Decision 13-10-2006.

Jagtar Singh
C/o. Shri N.K. Jeet,
27349, Lal Singh Basti Road,
Moh. Hari Nagar,
Bhatinda, (Punjab).

.....Petitioner

Versus

The General Manager,
Telecom,
Department of Telecom,
Amritsar (Punjab)

.....Respondent

APPEARANCE

For the Workman : Mr. N.K. Jeet
AR
For the Management : Mr. G.C. Babbar
Advocate.

AWARD

The workman continues to be absent. Management appears through Counsel.

After observing that the workman has not appeared in this Tribunal on any date fixed and his representative stated no instructions on the last date of hearing the Court

directed that the workman be summoned by notice under R/C directing him to appear and file his affidavit. The workman has not appeared even today and the notice sent to him on 1st August, 2006 under Postal Receipt No. 1024 has not been received back even after the expiry of more than two months. This gives reasons to believe that the workman had received the notice but he is not present. This further shows that he has lost interest in the case.

This Tribunal received reference from the appropriate Govt. vide their No. L-40012/59/2002/IR(DU) dated 24th July, 2002 by which the Central Govt. Desired to know whether the action of the Management in terminating the services of Jagtar Singh, workman w.e.f. 28th Feb., 1999 was just and legal and if not to what relief the workman was entitled to and from which date. The notice of the reference was given to the parties. The workman appeared through Shri N.K. Jeet whereas the Management appeared through Counsel. The workman filed the Claim petition whereas the Management filed their reply and affidavit of their witness. Thereafter the case was being listed for the affidavits of the parties and as is stated earlier, after filing the rejoinder the workman absented from Court appearance. He has not come forward to support the claim made by him in the statement of claim and rejoinder. This has also resulted in the non-providing of opportunity to test the claim of the workman by cross-examination. The claim made by the workman, therefore, has not been supported by any evidence nor the statement made by the workman in the statement of claim and the rejoinder can be read against the Management for the reason that the Management has not got the chance to cross examine the workman with regard to his case.

On record I do not find any evidence to show that the Management had engaged the workman in the office of SDO(T) Tarantaran from 1st March, 1998 to 28th Feb., 1999 on a salary of Rupees 2138 and his termination from service w.e.f. 28th Feb., 1999 was illegal and unjustified. The Management has denied the engagement of the workman stating that the workman was never engaged by them, therefore his claim is without any justification. Since the workman has failed to support his claim by any evidence much less by cogent evidence, therefore, he is not entitled to any relief. His claim is therefore rejected.

In view of the discussion made above the reference answered against the workman holding that he is not entitled to any relief. Let a copy of this award be sent to the appropriate Govt. for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4605.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/ग्राम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1217/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/44/2005-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4605.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1217/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/44/2005-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II,
CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 1217/2005.

Registered on 30-12-2005.

Date of Decision 19-09-2006.

Anant Ram S/o Shri Keshav Ram

R/o. Goverta, P.O. Sarkaghat,

Tehsil- Sarkaghat, District Mandi (H.P.)Petitioner

Versus

The Executive Engineer (Elect.),

BSNL, Electrical Division,

Khalini, Shimla (Himachal Pradesh)Respondent

APPEARANCE

For the Workman : NEMO

For the Management : NEMO

AWARD

The workman continues to be absent. He has not appeared in this Tribunal on any date fixed. It was in view of that the directions was issued that the workman be summoned by a notice under R/C which was sent to him on 14th August, 2006, vide Postal Receipt No. 1855. More than a month has passed. Neither the workman is present nor the R/C carrying the notice has been received back. This raises the presumption that the notice has been received by the workman, but he has chosen not to appear in the case.

On record there is only Claim Petition, filed by the workman duly supported by his affidavit and photo copies of some documents. Neither the Management has appeared nor they have filed reply to the Claim of the workman. Since the workman has not appeared continuously, it shows that either he has lost interest in the case or there has come some settlement between the parties, that is why, neither of them has appeared in this case although the Management appeared through Shri J.C. Virmani and D.M. Sharma, Executive Engineers on 30th December, 2005 & 17th March, 2006.

On record I do not find any evidence to show that the management had terminated the services of the workman w.e.f. 31st January, 1996, without any notice or retrenchment compensation. The affidavit filed by the workman and the other documents placed on record by him cannot be considered for the reason that these documents have not been tested on the touchstone of the Cross-examination. If these documents are excluded there remains nothing to show that the Management had engaged the workman as is claim and they terminated his service w.e.f. 31st January, 1996, without giving him any notice or without paying him the retrenchment compensation. There is absolutely nothing to show that there was any such action of the Management and that the same was illegal and unjustified. In these circumstance the award is passed against the workman holding that he has failed to show that there was his retrenchment from the service by the Management on 31st Jan., 1996, and the same was illegal and unjustified. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4606.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 661/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/332/2001-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4606.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 661/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Department and their

workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/332/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kudip Singh

Case No. I.D. No. 661/2k5.

Registered on 24-08-2005.

Date of Decision 27-09-2006.

Naresh Kumar C/o Shri N. K. Jeet,

27349, Lal Singh Basti Road,

Mohalla Hari Nagar, Bhatinda (Punjab)Petitioner

Versus

The Telecom District Manager,

BSNL, Ropar

.....Respondent

APPEARANCE

For the Workman : Mr. N. K. Jeet

For the Management : Ms. Deepali Puri
Advocate.

AWARD

The workman continues to be absent. Nobody is present for the Management.

It is on the record that the workman last appeared on 29th Sep., 2005. Thereafter he has not appeared on any date fixed. His representative has also not appeared since March, 2006. The record of the file shows that the pleadings of the workman were also filed by his representative except the affidavit of the workman. The workman appeared as a witness on the date last he last attended the proceeding in person on 4th Sep., 2006, Part statement of witness of management was recorded on that date since neither the workman nor his representative was present on that day. Therefore, the cross examination witness of the management could not be done. Today again neither the workman nor his representative is present.

From the long absence of the workman, it appears that workman has lost interest in the proceeding. The evidence produced by workman, by his statement, cannot be taken into the account for the reason that the Management has not got the opportunity to produce the evidence in rebuttal. Thus I do not find any evidence other than referred to earlier for and against the respective case of the parties. Therefore, there is nothing on record to support the claim of workman that he was engaged by the Management as workman and he served in the office of SDO Telephone, Ropar w.e.f. 6th March, 1996 to 01-03-1999 on a salary of Rs. 2148/- pm and his services were terminated by Management w.e.f. 1st Dec., 1999 without following

the provisions of Industrial Disputes Act 1947. The workman, therefore, is not entitled to any relief. The award is passed in these terms. The reference received vide No. L-40012/332/2001-IR(DU) dated 14th March, 2002 is answered holding that the workman is not entitled to any relief. Let a copy of this award be sent to the appropriate Govt. for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4607.-औद्योगिक विवाद अधिनियम, 1947 (1947का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन एग्रीकल्चर रिसर्च इंस्टिट्यूट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1060/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/97/97-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4607.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1060/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Agriculture Research Instt. and their workman, which was received by the Central Government on 7-11-2006.

[No. L-42012/97/97-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 1060/2k5.

Registered on 20-09-2005.

Date of Decision 3-10-2006.

Sat Pal S/o Shri Dharam Singh,
Village and PO Baldi, Tehsil &
District Karnal

.....Petitioner

Versus

The Head, Indian Agriculture
Research Institute, Karnal

.....Respondent

APPEARANCE

For the Workman

: Mr. Madan Lal

For the Management

Mr. D. R. Sharma
Advocate.

AWARD

The workman continues to be absent. Management is present through Counsel.

It has been noted in the interim order dated 15th June, 2006 that the workman is dead and his widow appeared on that day and requested for time to take steps for the substitution of LR's of the deceased workman. The Tribunal allowed the time but nobody appeared on the last date and even today nobody is present. A fresh notice was issued to the widow of the deceased workman and despite that neither she has appeared nor made fresh application for the substitution. She has also not prosecuted the earlier application and therefore, the application made earlier is dismissed for non-prosecution. The Court is satisfied that the LR's of the deceased are not interested to prosecute the present reference.

On record I find the Claim Statement, the reply of the Management, the replication. There is also on record the affidavit of the widow of the deceased workman and that of witness of the Management. The record of the file shows that the evidence produced by the parties has not been tested on the touchstone of the cross-examination. The claim made by the workman has been totally denied by the Management. In rebuttal to the affidavit filed by the widow of the deceased workman, the Management has filed the affidavit of their witness. Other than the affidavits of witness of the parties there is no other evidence to show that the Management had recruited the workman as a daily wager and he served the Management from 14th November, 1986 to 1993 and the Management thereafter terminated his services and thereafter doing so they violated the provisions of Sections 25-F, G & H of Industrial Dispute Act 1947, for short "ACT" as they retained the juniors of the workman and terminated his services. They also recruited fresh hands without providing opportunity to the workman. The Management has Categorically stated, that the workman had not served the Management for 240 days, 12 months preceding the date of his disengagement. According to them the workman was disengaged as there was no work available. They further denied the other claims made by the workman. There is nothing on record to show that the Management had failed to comply with the requirement of Section-25 of the Act and by not giving chance to the workman to work as a daily paid labourer after his disengagement whereas they provided that opportunity to his juniors, therefore, their action was bad in law. For want of evidence, the reference is answered against them. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4608.-औद्योगिक विवाद अधिनियम, 1947 (1947का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल इंस्टिट्यूट ऑफ प्लास्टिक्स इंजीनियरिंग एण्ड टेक्नोलॉजी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 999/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/62/91-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4608.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 999/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Instt. of Plastics Engineering and Technology and their workman, which was received by the Central Government on 7-11-2006.

[No. L-42012/62/91-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kudip Singh

Case I.D. No. 999/2005.

Registered on 16-09-2005.

Date of Decision 13-10-2006.

Jiwan Kumar C/o Bhartiya Mazdoor

Sangh Putligarh, Street No. 2, Amritsar.Petitioner

Versus

Senior Manager, Central Institute
of Plastics Engineering Polytechnic
Road, Amritsar.Respondent

APPEARANCES:

For the Workman : Shri Subhash Chander,
A.R.

For the Management : Shri Rameshwar Dass,
Advocate.

AWARD

The Govt. of India vide their notification No. L-42012/62/91/IR(DU) dated 1st Nov., 1994 referred the following dispute for the consideration of this Tribunal :

“Whether the action of the Senior Manager (Project),
Central Institute of Plastics Engineering and

Technology, Amritsar in terminating the services of Shri Jiwan Kumar, Cook w.e.f 15-09-1990 is legal and and justified ? If not, to what relief the concerned workman is entitled and from what date ?”

The notice of the reference was given to the parties who appeared through their representative and the Counsel. The workman filed his Claim Petition to which the Management filed the reply. The workman filed the rejoinder and also his affidavit. He also placed on record photo copies of the attendance sheet and other documents. The Management also placed on record the photo copies of some documents and the affidavit of Shri K. S. Sodhi, Manager, Administration. They also placed on record the affidavits of Messrs. Ishwar Singh, Ex-Hostel Warden, G. C. Saini, Ex-Member Mess Committee, S.S. Bhatti, the Warden Naveen Kumar, Member Mess Committee. They also placed on record two affidavits of Col. G. S. Bhudhall. At the later stage the Management filed another affidavit of Shri K. S. Sodhi, the Manager Administration and placed on record photo copies of registration certificate and Memorandum of Association exhibits R-A to R-C. They also submitted the judgment of Madras High Court, in the case of Writ Petition No. 863 of 1984 decided on 25th November, 1985.

I have gone through the pleadings of the parties and have also considered their submissions.

The claim of the workman is that he was employed as cook, by the Management on a monthly salary of Rs. 854.90 and he served them for 12 months. Thereafter his services were terminated on 15th Sep., 1990, without any notice, charge sheet or inquiry. He was also not paid the wages for the notice period nor the retrenchment compensation. They retained his juniors in service whereas terminated his service. Thus the termination of his services was bad in law, arbitrary and a result of unfair labour practice. The Management has opposed the claim of the workman stating that the workman was never employed by them. According to them the Hostel Mess was functioning on no profit no loss, cooperative basis and was being run by a Mess Committee constituted by the Mess members. The job of the Management was only to provide free electricity, water, utensils, furniture and fixtures besides was to pay for the services of one cook and helper. The workman was neither engaged by them nor his services were terminated by the Management. As per their information, the workman was engaged purely on daily wages and he worked under the direct control and supervision of Mess Committee. Since the workman was working directly under the Mess Committee, therefore, there was no question of issuance of notice to the workman by the Management or paying him retrenchment compensation by the Management. They also disputed the question of termination of services of workman as arbitrary and malafide. By subsequent application they raised a legal plea that the Management is not an Industry.

In the rejoinder the workman did not raise any new point or explained any situation referred to by the Management. He virtually reiterated the facts stated in the Claim Petition and submitted that as per the letter of Management bearing No. CIPET/ASR/LDJ/61/90-91 dated 20th October, 1990 the workman was the employee of the Management.

As per the Memorandum of Association, photo copy of which is placed on record, and is duly attested by the Management, the Management was registered as a society under the Societies Registration Act No. XXI of 1986 and was functioning as such since earlier 1968. The objective of the Society was to design and develop moulds and dies for the plastics processing industry, to standardize tools and tool elements for the plastics conversion industry, to introduce up-to-date methods in die and mould making, to introduce modern technology in plastics processing, to develop application ideas and product concepts in plastics with particular reference to import substitution. The other objective of the Society were to train highly skilled tool, die and mould makers, mould washer, process control maintenance operator, designers and designing personal or moulds, tools and dies, plastic processing and engineers and upgrade suitable, experienced person from Industry such as Craftsman, Instructor, supervisors, and Designers. The society had other objective also to achieve such as testing, standardise and quality control, service, Information and documentation, education. In the general category the objectives of the Management were also, among others, to sell and dispose of moulds, dies and tools produced in the course of training. There is nothing in the Memorandum of Association to show that the society was functioning under no profit no loss basis. It was to function on the back of money received from different sources such as money provided by the Central Government, received as fee and other charges and the money received from other sources.

The persual of the objects clearly indicates that the Management Institute (CIPET) is a society which is established by the Govt. of India receiving grants in aid imparting instructions and training in specialized plastics engineering and technology to students selected by it on all India basis who are also charged fee as student subscription. The society was also running a hostel for the purpose of accommodating the students undergoing instructions and training. CIPET awards diploma to the students who successfully completed the period of training which are recognized by Govt. of India. The Management maintained income and expenditure accounts. A careful consideration of the objects as well as nature of the activities carried out by the CIPET clearly establishes that it is only a society which is an educational institution, in that it imparts specialized instructions and practical training in the fields of plastic training.

The question that arises for consideration is whether or not this Society is an Industry. Hon'ble Supreme Court of India, in the famous case known as Bangalore Water

Supply and Sewerage Board V/s A. Rajjappa reported as 1978 LAB IC778, defined the word Industry as establishment where there is a systematic activity, organized by cooperation between employer and employee, for the production or distribution of goods and services calculated to satisfy human wants and wishes. According to their Lordship the absence of profit motive or gainful objective was irrelevant, be the venture in public, joint, private and other sector. The true focus, according to their Lordship, was on functional and the decisive test the nature of the activity with special emphasis on employee-employer relationship. Their Lordship further rules that the professioners, clubs, educational institution cooperatives research Institute charitable projects and other kindred, if they fulfilled the triple test listed above could not be exempted from the scope of Section 2(J) which defines Industry. Their Lordship further ruled that a restricted category of such as profession, clubs, cooperatives, Gurukuls and little research labs may qualify for exemption if they are simple ventures substantially and going by the dominant nature criterion, substantially no employees are entertained but in minimal matters and marginal employees are hired without destroying the non-employee character of unit. Applying the test laid down by the Lordship it cannot be said that the Management was not an Industry.

According to its objectives, the Management was engaged in a systematic activity organized by cooperation between an employer and employee, for the production of trained persons, skilled tools, dies and such other instruments suitable for use in the plastic goods Industry etc. Thus the objection raised by the Management that they are not an Industry is rejected.

Now the next question which arises is whether the Management followed the provisions of Industrial Dispute Act while terminating the services of the workman or not? The claim of the Management is that the workman was not engaged by them as they had nothing to do with the hostel mess, where the workman claims to have worked. According to them the mess was being run by a Mess Committee organized by the Mess Members and it was only the Mess Committee which run the Mess and thus they had the control over the working of the Mess and its employees. In the same breath they admitted that the CIPET i.e. Management has provided free electricity, water, utensils, furniture and fixtures to the Mess, they had also paid the wages of one cook and one helper of the choice of the Mess Committee. The liability of the Management was only to pay to one cook and helper. They further admitted that the workman had worked in the Student Mess purely on daily wages directly under the control and supervision of Mess committee and the Management had nothing to do with it. The Management did not dispute the claim of the workman that he had served the Management for twelve months proceeding 15th September, 1990 on which day his services were terminated. The Management,

therefore, admitted that the workman had served the Management for twelve months preceding the date of termination of his services on 15th September, 1990. Their only plea is that the workman was engaged by the Mess Committee and not by them. Their liability was only to provide logistic support to the Mess Management by providing them free electricity, water, utensils, furniture and fixtures besides the wages of one cook and the helper. They have also not denied that the Mess was run within the premises provided by the Management. They have failed to show as to who had recruited the workman. They tendered the affidavits of some of the Mess members and the hostel wardens such as G.C. Saini, Navneet Kumar, Ishwar Singh, Ex-Warden, M.S. Bhatti, Warden at that time. All these witnesses only stated that the workman was engaged by the Mess Committee without showing as to who was heading the Mess Committee which had engaged the workman or who was to control, supervise or assign the job to the workman. G.C. Saini and M.S. Bhatti, Ex-members of the committee claimed that the wages of the workman were also paid by the Mess Committee which runs counter to the claim made by the Management.

It is on record that the Management did not put any question or suggestion to the workman in this regard. Thus there is no evidence to show that the workman was appointed/engaged by the Mess Committee which was independent in its functioning and the Management had no direct or indirect control thereon. On the other hand it is admitted by the Management that they had provided the space for running the Mess. Besides they had provided the utensils, furniture and fixtures besides water and electricity for the Mess in which the workman was engaged. It was they who had to pay the wages of the cook and the helper engaged in the Mess. In the circumstances it is difficult to accept the plea of the Management that the workman did not work for them or was not their employee. Their witness K. S. Sodhi admitted in his statement that the attendance of the workman was marked by the Management in their register exhibit W3 and that the payments were made to the workman by the Management by exhibit W2. I fail to understand what more proof was required to show that the workman was the employee of the Management. In terms of the memorandum of association, the Mess Committee had no legal entity or status qua the Management Institute. Thus the plea of the management cannot be accepted that the workman was not engaged by them and he had not performed the duties for the Management or that there did not exist a relationship of employer and employee between them. During the statement of the workman he was not put any question or suggestion that he was appointed by the Mess Committee constituting such members. The Management has, therefore, failed to show that the workman was engaged by a Mess Committee and not by them he served in the Mess under the direct supervisory control of the said committee.

There is no dispute that the services of the workman were terminated w.e.f. September, 1990, and that he had served in the Mess of the Management from January 1989 till that period. Thus he had served the Management continuously for more than 240 days preceding the date of his termination.

There is no evidence on record to show that before terminating his services the Management had given one month's notice to the workman or one month's salary in lieu of the notice. There is also nothing to show that he was paid the retrenchment compensation in terms of Section-25-F of the Act. There is also no proof that Management had informed the appropriate govt. about their proposed termination of services of the workman. Thus the Management did not follow the provisions of Sec. 25-F of the Act. This renders the disengagement of the workman bad in law and unjust. The same is, therefore, quashed. The workman is treated to be in service as if there was no order of terminating of his services.

The question which now arises as to what relief the workman is entitled to. There has come no evidence on record to show that the workman remained gainfully engaged during the period beginning from the date of termination of his services till date. However, it cannot be said that the workman remained idle all through this period without showing as to how then he survived and took care of his family. It was the duty of the workman to show that he remained without work during this period. There is absolutely no evidence on the file in this regard. Since the termination of the workman has been held to be illegal, therefore, he is entitled to all the service benefits including back wages, but in the circumstances he will be entitled to back wages only to the extent of 25% of the wages he would have earned what for illegal termination of his services the Management. The reference is answered in these terms that the termination of services of the workman w.e.f. 15th September, 1990 was illegal and unjustified and held to be in service all through this period as if there was no order of termination of his service. He will be entitled to back wages to the tune of 25%. The Management is directed to take back the workman in service immediately after the award becomes enforceable and pay him the back wages within three months from the date. On failing to do so the workman shall also be entitled to the interest on back wages at the rate of 9% p.a. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be, consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4609.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक

अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1108/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/329/2000-आई आर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4609.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1108/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Postal Department and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-40012/329/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II CHANDIGARH

Presiding Officer : Shri Kuldeep Singh

CASE NO.I.D.No 1108/2005.

Registered on 22-09-2005

Date of Decision 19-09-2006.

NARESH KUMAR S/o SHRI RAM SARUP, VILLAGE &
POST OFFICE SAMALKHA, AMBALA (HARYANA)

PETITIONER

Versus

CHIEF POST MASTER GENERAL, HARYANA CIRCLE,
AMBALA (HARYANA)

RESPONDENT

APPEARANCE

For the Workman : Mr. A.L V ohra AR

For the Management : Shri Namit Kumar
Advocate.

AWARD

The following reference was received for adjudication from the Central Govt. under their No. L-400 12/329/2000/IR(DU)

"whether the action of the Chief Post Master General, Ambala in terminating the services of Shri Naresh Kumar S/o Shri Jagir Singh, w.e.f.21-08-1999 is just an legal? If not, to what relief the workman is entitled?"

The notice of reference was given to the parties who appeared through their Counsel. The workman filed his Claim Statement on 3rd Jan., 2001, to which the Management

filed reply on 21st March, 2001. The workman filed rejoinder and his affidavit and also placed on record his two applications dated 8th March, 1999 and 27th May, 1999, made to the Post Master General, Haryana Circle, Ambala. He also filed his additional affidavit dated 20th May, 2002. In reply the Management filed two affidavits of Shri K.S Madan, Assistant Director, Mail. The workman also made an application for a direction to the Management to produce the record he detailed therein. In support of their respective claims the workman appeared as a witness whereas the Management produced Shri K.S Madan.

I have gone through the file and have also considered the Written Arguments submitted by the parties duly supported by the judgements of different High Courts and Supreme Court of India.

The claim of the workman is that he is a middle pass, duly registered with the Employment Exchange, Ambala that the Management, after adjudging his suitability appointed him as a Washman on daily wages as a Casual Worker in their Departmental Canteen w.e.f 9th May, 1994 on a salary of Rs. 40/-, which was later on raised to Rs. 46/-per day; that except two casual workers the others were engaged on regular basis; that all through the period he served the Management his work remained satisfactory; that as per the scheme, framed by the Management, to grant temporary status and regularization Casual Worker, the requirement was of having served for 240/206 days in two consecutive years depending upon six days or five days a week and the Canteen of the Management was having 5 days a week. That the workman had served the Management for 206 days in each year of his employment, therefore, after having served the Management for two years, he was lawfully entitled for the grant of temporary status and for the regularization. But the Management did not grant him that status even when he had served them for five years and he had made repeated requests including the representations made on 8th March & 27th May, 1999. Instead the Management felt annoyed of his representations, therefore, they terminated his services on 21st August, 1999, without communicating him any reason and without complying with the provisions of Sec.25-F & G of Industrial Disputes Act, 1947, hereinafter to be referred as 'ACT'.

It is further claimed by the workman that he had submitted a demand notice to the Assistant Labour Commissioner, Chandigarh, who held the conciliation proceedings. Before him the Management took the stand that the workman was a contingently paid employee and did not fall in the category of Civil Services. As a result thereof the conciliation proceedings failed. On the recommendations of ALC the Govt. of India referred the matter for adjudication. It is contended by the workman that the Management is an industry and the workman is a workman. That the workman had completed 206 days of service in each year during his five years of service,

therefore, before terminating his services he was entitled for the benefit, under Section 25-F & G. The Management did not follow the provisions of Section 25-F and verbally retrenched his services illegally and without paying him the retrenchment compensation. They also did not issue him any notice nor paid the wages for the notice period. Relying upon the judgement of Punjab and Haryana High Court in the case of *Vimarpinder Singh V/s State of Punjab*, reported as 1997(3)SCT49, it is stated by the workman that his services were dispensed with without following the provisions of Section 25-F. Although the same might have been dispensed with because of decrease of work, but it still amounted to retrenchment entitling the workman to all the benefits. The workman is, therefore, entitled for temporary status and regularization with all consequential benefits. He also prayed for summoning the record from the Management and for issuing directions to the Management to pay back wages to the workman and also give him all benefits including the benefit of continuity in service. He has also prayed for grant of temporary status and regularization in service besides interest at the rate of 18%, on the emoluments found due to him.

The Management has opposed the claim of the workman. It is their case that the workman was a contingency paid employee, therefore, he was not governed by the service rules. As per the departmental instructions the allowance of such daily wager contingency paid employees was drawn against the designated post against which post they were deployed and not in their names. They were at liberty to take up or not to take up the duty at any time, on any day or quit the job without notice. Thus there was no relationship of employee and employer between the parties. The workman had worked for the Management only as an outsider daily wager purely on temporary basis, therefore, he has no right to claim; that the department has specific recruitment rules under which the posts in the canteen and Tiffin rooms, run by the Govt. of India, could be appointed. The engagement of the workman was not in accordance with those rules as he was engaged purely, as daily wager contingency paid wash boy. Even otherwise as per the law of land the Management was not an industry and so not a subject of Industrial Dispute Act 1947. Also as per the judgment of Apex Court, a daily wager worker could not be a workman as he was not bound by any disciplinary rules and could leave the job at any time. The workman had served the Management as an outsider daily wager purely on temporary basis.

It is further the claim of the Management that authorized strength of the departmental canteen was one Tea Maker, One waiter, one wash boy and all those post were filled by regular employees. The worker had served the Management as Wash Boy w.e.f. 9th May, 1994. He was paid from the contingency. His representation was examined and it was found that his engagement was irregular and in excess of the sanctioned strength and the

appointment was verbal. He was also not appointed after a competition under the prescribed rules. It was in those circumstances that his services were dispensed with.

In reply to the averments made in the Claim Petition, it is further stated by the Management that since the engagement of the workman was irregular, therefore, the Management did not know the particulars of the workman. It is also a wrong claim of the workman that he was engaged after adjudging his suitability. They have also denied that there were two wash boys engaged, whereas there was only one wash boy employed by the Management. They further denied that the disengagement of the workman was because of the mis-conduct rather he was disengaged on finding his engagement irregular. Disputing the claim of the workman made in para 5,6,7 of his Claim Petition the Management has stated that the workman was not entitled for regularization or for temporary status because of his engagement being irregular. According to them a daily wages worker is not treated to be a workman, therefore, he cannot claim the benefit of Section 25-F & G. According to them the termination of service of workman does not suffer from any illegality. Admitting that the workman had filed the case before the ALC, it is submitted by them that the workman cannot be granted the relief even if there was irregularity in terminating his services in the face of the judgment of Punjab And Haryana High Court in the case of *Brij Bhushan V/s Industrial Tribunal-cum-Labour Court, Panipat* reported as 1998(2 RSJ 449) as his appointment was made without competition and was a back door entry. The engagement was also over and above the authorized strength. They have also reiterated the plea that neither the Management was an Industry nor the workman a workman and requested that the claim of the workman be rejected.

In the rejoinder the workman has contested the claim of the Management made by preliminary objections and submitted that it is a settled principle of law that even a Casual Worker is a worker and entitled to the benefits under the ACT. He further submitted that the appointment in the Departmental Canteen was governed by "Departmental Canteen Employees (Recruitment and conditions rules 1980)" but the workman was not appointed under those rules. Therefore, he was governed by the Act and the rules made under. He also disputed that the application of ratio of *Himanshu Kumar Vidyarthi's Case* cited by the Management to the facts of the present case. He has claimed that the Management is an "Industry" as is held by different Courts of the Country. He reiterated that his appointment was made in accordance with due process and he had served the Management from 9th May, 1994 to 20th August, 1999. He has further claimed that besides the Tea Maker, Bearer and wash boy, the Management have been employing one or two wash boy on daily wages since more than a decade and the workman was also appointed in that process. Before him one Kishan was employed for two

and half to three years and before that the workers were engaged as the work was of permanent nature. The Management got annoyed with the workman when he claimed regularization in service and terminated his services although they had no reason to do it. After his disengagement the Management has engaged persons named Parveen Kumar, Manoj Kumar, Sanjeev Kumar, Jagan, Gurmeet, Appu, Chottu and Rinku. He has further claimed that he had submitted an application for appointment after Shri Kishan left the job. Thereafter he was interviewed and his certificates were checked, whereafter he was taken in job. According to him the staff for the canteen was sanctioned about 20 years ago when there was only one office. However, the staff increased and the new offices were shifted to the premises of canteen, therefore, the Management used to employ staff on daily wages. It is on record that the Management had recommended for more posts for the canteen. He reiterated his stand as was taken in the Claim Petition with regard to the facts stated by the management in their Written Statement. The workman has disputed that the Management had known about the appointment of some workers only in the year 1999. According to him they had made the appointments of the workers off and on, only so as to deny benefit to workman of temporary status, they illegally terminated his service.

The Management produced Shri K.S Madan as their witness who in his statement before the Tribunal, admitted that the workman had served the Management almost continuously from 9th May, 1994 till 21st August, 1995. He further admitted that the workman had completed more than 240 days of service in a calendar year preceding the date of his termination. He further admitted that neither any notice was given to the workman nor he was paid the retrenchment compensation; and that the canteen is still running continuously.

In their Written Arguments the Management submitted that the workman was a contingency paid employee as his wages were paid from the contingency drawn in the designation of post to which they were employed and not in the name of particular person. Therefore, the workman was at liberty to take up the job or leave it even without a notice. Thus according to them there was no relationship of employee and employer between the parties and so the provisions of the Act did not apply in case of the workman nor he has any legal right to claim. Their further submission is that the recruitment in the canteens is governed by Departmental Canteen Employee (Recruitment and conditions of Service Rules) 1980 under which the posts in the Canteen and Tiffin rooms run by the Department of Govt. of India were filled and the employees were appointed to work in the canteens according to rules. They have also claimed that the Management is not an Industry amenable to the provisions of the Act. They have further claimed that the appointment of the workman was purely on the daily wages and he was

paid from the contingency fund and his engagement could not be described as public appointment. Thus a public property, as is held by the Hon'ble Supreme Court. Therefore, he has no right for reinstatement or regularization in service. In their support they have referred to the judgments of the Hon'ble Supreme Court reported as 1998 (1) SCT 146.

The further claim of the Management is that there was authorized staff in the canteen such as a Tea Maker, a bearer and a wash boy and all those posts were duly filled in. In the same breath they admitted that the workman had served the Management as Wash Boy w.e.f. 9th May, 1994, but his appointment was purely on daily wages and he was paid from the contingency. They further admitted that the case of the workman was examined and it was found that his engagement was irregular and in excess of the sanctioned staff. Therefore, it was highly objectionable. For that reasons his services were discontinued. Admitting that it could not be found from the record as to why he was engaged. They have further stated that the right of temporary status/regularization was a one time scheme and is no more in operation nor it could be applicable in future recruitment.

From the evidence produced and the submissions made by the Management it emerges out that the workman had continuously served the Management from 9th May, 1994 till 25th August, 1999; that he had served continuously for 240 days in a calendar year preceding the date of his termination and he was not paid any retrenchment compensation nor was given any notice of termination. The Management has taken the defence that the appointment of the workman was not done under any rules. It was an irregular recruitment without the consideration of qualifications, advertisements of posts, or holding of interviews. Moreover the engagement was in excess of the sanctioned strength, therefore, the workman has no right either to be reinstated on the post or that of temporary status as there never existed a post against which he was engaged. Their next claim is that the Management is not an Industry and so the workman cannot claim himself to be the workman. The engagement of the workman was purely out of the contingency fund and it was found that the engagement of the workman was irregular and without losing any time his services were terminated.

From the pleadings of the Management it comes out that the workman was not a civil servant amenable to the service rules and thus he was protected by the provisions of the ACT. In the face of seven judges judgments in the case of Bangalore Water Supply and Sewerage Board V/s A. Rajappa reported as 1978 1 LLJ 349 it cannot be claimed that the Management is not an Industry. Their Lordship have laid down the test which would show whether a particular establishment is an Industry or not. According to them an establishment is an Industry which has a systematic activity, organized by a corporation between

an employer and employee, for the production and/or distribution of goods and services calculated to satisfy human wants and wishes. They declared that profit motive or gainful objective is irrelevant and the true focus should be on the functional and the decisive quest, and employer and employee relationship. They have even included the Cooperatives Research Institution, Professions, Clubs, Educational Institution, Charitable Projects and other kindred adventures, in the definition of Industry, if they fulfilled the triple test i.e. of systematic activity, organized by operation between employer and employee for the production and/or distribution of goods etc. Applying the said test reiterated in numerous judgments, it is held that Management is an Industry. In this regard a reference can also be made to the judgement of the Apex Court in the case of General Manager Telecom V/s. S. Srinivasan Rao and others reported as 1998(1 SLJ 106).

I do not find any weight in the submission of the Management that since the engagement of the workman was over and above the sanctioned strength; and that he was paid from the contingency, therefore, he could not claim any right. The law is settled that the workman is a workman, even if he is a daily wager, casual, temporary or in any capacity. He gets the protection of Section 25-F of the Act, the moment he renders continuous service of 240 days to the Management. In this regard I get the support of the Judgment of the Hon'ble Karnataka High Court reported as Nattappa Hanuman Thappa Lamani V/s. Management of Sericulture Department reported as 2022(SSLR 483). In this reference the regularization or grant of temporary status, is not the question to be decided here. What is to be seen is whether the action of the Management to terminate the service of the workman on 25th August, 1999 was legal or not. In view of the evidence available on record and discussed above, it is clear that the Management did not follow the provisions of the Act before terminating the services of workman. They admitted not to have given notice to the workman or paid salary for the notice period. They further admitted that they had not paid retrenchment compensation to the workman before terminating his services. Therefore they violated the provisions of Section 25-F of the Act which renders the termination of the workman as bad in law.

Considering the facts and circumstances of the case I am of the opinion that the Management violated the provisions of the Act while terminating the services of the workman on 21st August, 1999, therefore his termination is treated to be bad in law and is hereby quashed. The other grounds are not urged nor proved by the workmen.

Now the question comes as to what relief the workman is entitled to. The workman has claimed that he is dependent upon his father. Against this assertion the Management has stated nothing. However, the fact remains that during the intervening period, right from the date of his termination, the workman has not served the

Management. He has also not claimed any disability to work. This can also not be accepted that he has remained idle all this period fully dependent upon his father. He must have kept himself engaged and earned, may not be as much as he would have earned if his services were not terminated by the Management illegally. Therefore, I hold that he is entitled to back wages to the extent of 50%. The Management is directed to reinstate him on the post, he was holding and also pay him the back wages within three months from the date the award become enforceable. If they fail to do it, they will be under an obligation to pay interest on the back wages at the rate of 9% p.a. The award is passed in these terms. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4610.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 264/2005) को प्रकाशित करती हैं, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/397/2000-आई.आर. (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4610.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 264/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Department and their workman, which was received by the Central Government on 7-11-2006.

[No. L-40012/397/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT-II, CHANDIGARH

Presiding Officer

: Shri Kuldip Singh

Case No. I.D. No. 264/2005.

Registered on 11-4-2001.

Date of Decision 7-9-2006.

Shri Balwinder Singh S/o Sh. Rishpal Singh.

C/o Shri N.K. Jeet, 27349,

Lal Singh Basti Road, Bhatinda (Punjab)

....Petitioner

Versus

नई दिल्ली, 7 नवम्बर, 2006

The General Manager, Telecom., Jullundhur.

.....Respondent

APPEARANCE:

For the Workman : Mr. N. K. Jeet
 For the Management : Mr. G. C. Babbar
 Advocate.

AWARD

The workman continues to be absent. On 6th March, 2006, Mr. N.K Jeet who had been appearing for the workman stated that he has no instructions to appear in the case. He further stated that he has no other address of the workman. On 31st March, 2006 Mr. R.P. Rana, an associate of Mr. N.K Jeet stated that he will inform the workman about the date fixed, but neither the workman appeared nor anybody else on his behalf. It was in these circumstances that fresh notice was sent to the workman under R/C vide Postal Receipt No. 204 dated 14th July, 2006, on his residential address. So far neither the R/C carrying the notice has been received back nor the workman has appeared although more than one and a half month has passed by. This shows that the workman is not interested to prosecute his case.

The Govt. of India has desired to know vide their reference No.L-40012/397/2000-IR(DU) dated 1st Feb., 2001 that whether the action of the Management of General Manager, Telecom Jullundhur in terminating the services of Balwinder Singh S/o Rishipal Singh was just and legal? If not, to what relief the workman is entitled to? The workman in his statement of claim stated that he was appointed as Security Guard by the management under SDOT Nawanshahar on a monthly salary of Rs.2138 and he served the Management since long till 16th March, 1999. The Management in their Written Statement has, denied the claim of the workman. It is stated by them that the workman was neither appointed nor his services were terminated by the Management. According to them the labour for the emergency work used to be supplied by a Contractor who had been allotted the contract by the Management. They have supported their claim with the affidavit of their SDT(G) Mr. V.K Pabby. Thus the Management has totally denied the claim of the workman.

Although the workman filed the rejoinder, but he did not produce any proof in support of his claim. He has also not come in the witness box to support his claim. Thus there is no evidence on record to show that the workman was engaged by the Management and his services were terminated by them on 16-3-1999 without following the provisions of Industrial Disputes Act, 1947. The reference is answered against the workman holding that he is not entitled to any relief. The award is passed in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

क्र.अ. 4611.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडेंट, एम्पुनिशन डिपो के प्रबंधन के संबद्ध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 39/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-14012/3/2004-आईआर(डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4611.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Commandant, Ammunition Depot and their workman, which was received by the Central Government on 7-11-2006.

[No.L-14012/3/2004-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI RAJESH KUMAR, PRESIDING
 OFFICER, CENTRAL GOVT INDUSTRIAL
 TRIBUNAL- CUM- LABOUR COURT, NO. 1
 CHANDIGARH.**

Case No. ID 39/ 2005

Sh. Kuldeep Singh S/o. Shri Sadhu Singh Mehna Poothli
 Distt. Bhatinda

....Applicant

Versus

The Commandant, Ammunition Depot, Bhatinda Cantt.
 Bhatinda

....Respondent

APPEARANCES:

For the Workman : None
 For the Management : Sh. Sanjiv Sharma.

AWARD

Passed on 3-10-2006

Central Govt. vide notification No. L-14012/3/2004-IR (DU) dated 26-9-2005 has referred the following dispute to this Tribunal for adjudication.

“Whether the action of the management of
 Commandant Ammunition Depot, Bhatinda

in terminating the services of Sh. Kuldeep Singh S/o Shri Sadhu Singh w.e.f. 1-1-2001 is just and legal? If not to what relief the workman is entitled for?"

2. Case repeatedly called. None has put up appearance on behalf of the workman. Learned rep. of the management submitted that workman appears to be not interested and not appearing nor has engaged any advocate or AR. He probably not interested and gainfully employed some where. Case may be returned

3. In view of above and that workman not appearing on this third date even up to lunch and after lunch and he did not file his rejoinder affidavit in vidence workman also did not send any information on these 3 more dates Hence he appears not to be interested in prosecution of this case. Hence the reference is returned for non prosecution as workman or his AR not appearing in this case as prayed by the Govt. counsel. Central Govt. be informed.

Chandigarh.

3-10-2006.

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4612.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 7/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/207/94-आईआर.(डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4612.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/96) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Postal Department and their workman, which was received by the Central Government on 7-11-2006.

[No. L-40012/207/94-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH.

Case No I. D 7/96

Sh Om Parkash R/o Village & Post Office Kalaud. Distt. Hissar (Haryana).

...Applicant

Versus

The Superintendant of Post Offices. Bhiwani Division, Bhiwani (Haryana)

...Respondent

APPEARANCES

For the workman : None.

For the management : Shri I. S. Sidhu
Advocate.

AWARD

Passed on 26.9.06

Govt. vide notification No. L-40012/207/94/IR(DU) dated 28-12-95 has referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of Post Offices in terminating the services of Sh. Om Parkash Ex-Extra Departmental Post Master w.e.f. 20-6-92 is justified fair and legal? If not to what relief the workman concerned is entitled?"

2. None appeared on behalf of the workman, Workman is not contacting his advocate as submitted earlier by his advocate and not appearing in the court despite efforts made by the Court by issuing court notices through Regd post. Workman appears to be not interested in prosecuting his reference, Hence the present reference is hereby returned for non-prosecution by workman who is not appearing and his advocate also stopped appearing Central Govt. be informed

RAJESH KUMAR, Presiding Officer

Chandigarh.

26-9-06

नई दिल्ली, 7 नवम्बर, 2006

का.आ 4613.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1036/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/2/93-आईआर.(डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4613.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1036/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.B.M.B. and their workman, which was received by the Central Government on 07.11.2006.

[No. L-42012/293-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT II, CHANDIGARH.

Case No. I.D. 1 036/ 2005

Registered on 19-9-2005

Date of Decision 9-10-2006

Sh. Imrat Singh S/o Shri Gulzari, R/o VPO Luhari, Tehsil Bhiwani Khera, District Bhiwani, Haryana

....Petitioner

Versus

Executive Engineer, Stores and Arrears Division, BBMB Bhiwani, Haryana.

....Respondent

For the Workman : Shri Hardial Singh
Hundal Advocate

For the management : Mr. Sajal Ahluwalia,
Advocate.

AWARD

The Govt. of India vide their notification no. L-42012/293-IR(DU)/(C-II) dated 24th August 1994, referred the following matter for the adjudication of this Court:

"Whether the action of the Management Beas Project, Bhiwani, in terminating the service of Shri Imrat Singh w.e.f 28th February, 1990 is just, fair and legal? If not, to what relief the workman concerned is entitled and from what date?"

After the receipt of the notification, the notice thereof was issued to the parties who appeared through their Counsel and representatives. They filed their respective claims in the shape of statement of claim, written Statement, affidavits of the workman and that of witnesses of the Management. They also placed on record photo-copies of some documents. Both the workman and Mr. D.K Tayal, the witness of the Management appeared to answer the queries put in the cross examination.

In nutshell, the claim of the workman is that he was appointed as Beldar on 2nd November, 1987 and he

continuously worked for the Management till his services were terminated on 28th Feb., 1990, without serving any notice on him. He was also not paid the retrenchment compensation. The Management violated the provisions of Industrial Disputes Act 1947, hereinafter to be referred as "ACT" by retaining the juniors whereas terminated his services and also by making fresh recruitment without offering the workman opportunity to serve. Thus the retrenchment of the workman was bad in law.

The Management has opposed the claim stating that the services of the workman were terminated on the completion of work of Beas Project in terms of section 25-FFF of the Act, therefore, the workman is not entitled to any relief. Moreover the Project had been transferred to the BBMB and the Beas construction Board is no more in existence. It is further their claim that the workman was given 24 hrs notice in terms of Sec.25-FFF, by which the workman was directed to collect the retrenchment benefits from the office of SDO Sub-Division, BCB, Bhiwani, but the workman refused to accept the notice and also did not collect the retrenchment benefits. They denied that any of the juniors of the workman was retained; and that in all only nine daily wagers were working in civil subdivision, in which the workman was engaged and all of them were disengaged due to completion of work, by following the principle or last come first go. They further denied that any fresh recruitment was made after the termination of services of the workman. It is also their case that although the workman was not entitled for compensation, but still, the Management offered the same to him; and that since the work of the Project had completed, therefore, not only the daily wagers but also the work charge employees of the Management were retrenched w.e.f., 11th August, 1993.

As stated earlier the workman appeared as a witness in the case on 23rd October, 2002 and on a question from the Management admitted that he had received a notice from the Management, but he had refused to accept the same. In his Claim Petition also he admitted in para 2, that the respondent had served retrenched notice on him on 27th Feb., 1990, but he had not received the same and on 28th February, 1990, he was verbally told that his services are no more required. On record I find a copy of the notice dated 27th Feb., 1990, bearing no.2043, issued by Executive Engineer GSS Division, Beas Project, Bhiwani, to the name of the workman. A perusal of photo copy of the notice shows that the Management had informed the workman that since there is reduction of work due to part completion of the project, therefore, the services of the workman were no more required w.e.f. 29th February, 1990. The workman was advised to collect one month's wages in lieu of notice and the amount of retrenchment compensation from the office of SDO, C/W, SD-II, DP Bhiwani. Since the workman admitted that the Management had issued that notice on 27th Feb., 1990, therefore, it cannot be said that the workman was not given notice before terminating his services. In

view of that notice the workman could collect his retrenchment compensation and a month's wages in lieu of notice period from the office of SDO, COD, Bhiwani on 27th February, 1990 or atleast on the next day but as he himself stated that he had not received the notice nor the compensation. Therefore, it is because of the conscious act of the workman that the compensation and notice wages could not be paid to the workman as he himself did not receive the same. Whatever was required of the Management to do, they had done it and if the workman did not receive the compensation it was because of his own conduct that he did not receive the same. Therefore, it cannot be said that the Management failed to comply with the provisions of Sec. 25-F of the Act.

The next claim of the workman is that the Management did not follow the provision of Section 25-G & H as they retained the Juniors of the workman whereas terminated his services and they also made fresh recruitments. He named one Ram Parsad, who had been appointed after his termination. But he failed to produce any evidence to show that any such Ram Paul was appointed after the termination of his services. Mr. D.K. Tayal who appeared as a witness denied any knowledge of the recruitment of the person named Ram Paul. It was the duty of the workman to show that Ram Parsad was appointed by the Management after the termination of service of the workman. The Management has however, claimed that no workman was engaged in the Civil sub-Division in which there were only nine daily wagers and all of them were disengaged on the completion of the work, for which they were engaged. The Management has placed on record a copy of letter dated 9th March 1990, by which it was brought to the notice of the Engineer concerned that out of the nine daily wagers only one Suresh accepted the notice whereas the other eight refused to accept the same so the notices were sent to them under R/C. This document shows that there were only nine daily wagers working in the Management Division and all of them were given the notices of termination in the manner claimed, but they refused to accept the notices and finally they were issued the notices under R/C. The Management has also placed on record photo-copy of postal receipts by which the registered notice was sent to the workman in March, 1990. The workman has failed to show as to which of the juniors were retained when his services were terminated. He has also failed to show in which of the division he was appointed. Even he has not given the particulars of the Ram Parsad to make the Management to verify the particulars of such a person. Even in his Claim Petition he did make a vague claim that some persons were engaged by the Management.

The Counsel for the workman has tried to drive the benefit from the wording of the notice dated 27th Feb., 1990, a copy of which is placed on record. He has claimed that as per the notice there was only reduction of the work

and not altogether ceasing of the work, as only a part of the Project had been completed and not whole of the work had completed. From the notice, according to him, it appears that the work was still available but despite that the Management terminated the service of the workman. In my opinion the argument is far fetched and cannot be accepted. It cannot be accepted that the intention of the Management was to terminate the services of the workman and leave the Project incomplete. It was the Executive Engineer, a competent authority, who had the authority to decide as to whether he required the services of all the workmen or only few of them. As an appointing authority it was he who was to decide whether the services of the workman were required any more or not. Presuming that the work was still available, it was further required of the workman to show that the work available, could not be done than by any other workman. Therefore, I do not find any weight in these submissions of the counsel for the workman, therefore, the same are not accepted.

The Counsel next argued that since the termination of the workman and payment of retrenchment compensation and wages for notice period, was required to be paid as co-terminus and the Management failed to do that, therefore, the termination is bad in law. It has been discussed above that the Management had done everything to inform the workman that his services were no more required from 29th Feb., 1990 and that the workman could collect the wages for the notice period and the termination compensation from a particular office from 27th Feb., 1990 whereas the termination of his services was to take effect from 29th Feb., 1990. But the workman, by his conduct, did not collect the notice wages and retrenchment compensation from the office of SDO named in the notice, even when he admitted that he had got the notice, issued by the Management but the service of it he had refused continuously. In view of this it cannot be said that the Management had failed, in his duty, to pay the retrenchment compensation to the workman and the wages for the notice period simultaneous to his disengagement from service. The authority referred to by the Counsel for the workman, reported as 1998 (SLR) 77, to my mind, is not helpful to him. The facts of the present case get full support from the judgement of Hon'ble Supreme Court reported as *Gurmail Singh V/s. State of Punjab*, (1991) II LALJ 76.

In view of the discussion made above I am of the opinion that the action of the Management, Beas Project, Bhiwani, in terminating the services of the workman w.e.f. 28th Feb., 1990 was justified and legal, therefore, the workman is not entitled to any relief under law. The reference is answered in these terms.

Before parting it is recorded here that the Management by their own pleadings. Admitted that the workman could not be paid the retrenchment compensation and the wages for the notice period, because of his own conduct. In this way they admitted that the workman was

entitled to the payment of retrenchment compensation and the wages for the notice period. It would be judicious that they make fresh efforts to make the payments of the dues to the workman. Rather it was required of them to have deposited the dues in this Tribunal to show their magnanimity. Therefore, I direct them to make the payment of these dues to the workman alongwith interest at the rate of 9%p.a if the payments are not already made. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

क्र.आ. 4614.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पी. जी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 90/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/95/2004-आई.आर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4614.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of PGI and their workman which was received by the Central Government on 7-11-2006.

[No. L-42012/95/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 90/2005

Registered on : 20-4-2005

Date of Decision : 28-7-2005.

Sh. Jagan Nath Yadav, S/o Sh. Madho Yadav, 1246, Janta Colony, Near Engg. College, Sector-12, Naya Goan, Teh. Kharar, Dist. Ropar, Chandigarh

Petitioner

Versus

The Director, PGI, Chandigarh

Respondent

APPEARANCES

For the Workman : Mr. Lalit Thakur Advocate

For the Management : Mr. Yogesh Putney, Advocate

AWARD

The Government of India, Ministry of Labour, vide their notification No. L-42012/95/2004-IR(CM-II), dated 31-3-2005 referred the following dispute for the adjudication of this Tribunal :

"Whether the action of the Management of PGI Chandigarh in terminating the services of Sh. Jagan Nath Yadav, Chowkidar, w. e. f. 31-8-2003 is legal and justified? If not, to what relief the workman is entitled to?"

Upon receipt of the reference notices were issued to the parties. Workman appeared in person whereas the Management appeared through their counsel. On 8th of June, 2005, there started a dialogue between parties, about the compromise and the parties sought time to make statement in the Court. The modalities of the compromise could not be settled by 15th of June, 2005, the next date fixed in the case and the parties requested for more time. The matter remained in the same position even on 30th of June 2005. On 1st of July, on being satisfied that the parties have failed to compromise in the matter, the court directed the workman to file his claim petition on 28th of July, 2005, that is, today. The workman appeared today, in presence of counsel for the Management and made the statement that the Management has assured him reinstatement in service, in case he does not claim back wages. He admitted to have accepted the offer and requested that he may be allowed to withdraw the case and the reference be dismissed as withdrawn. The counsel for the Management, by remaining silent, apparently gave his tacit consent. He has not opposed the dismissal of the reference as withdrawn. Thus the Management has tacitly admitted the claim made by the workman.

Since the parties have compromised and are not interested to get the matter decided on merit, therefore, the reference is deemed to have been withdrawn by the workman. It is answered in these terms. Let the file go to the records after due completion. A copy of the Award be sent to the appropriate Government for necessary action.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

क्र.आ. 4615.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पी. जी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 91/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/94/2004-आई.आर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4615.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of PGI and their workmen which was received by the Central Government on 7-11-2006.

[No. L-42012/94/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II H. NO. 1228, SECTOR 24-B,
CHANDIGARH**

Presiding Officer: **Shri Kuldip Singh**

Case No. I. D. No. 91/2005

Registered on : 20-4-2005

Date of Decision : 28-7-2005

Sh. Jagdish Singh, S/o Sh. Narayan Singh, House
No. 113, Type-I, PGI Campus, Sector. 12, Chandigarh

Petitioner

Versus

The Director, PGI, Chandigarh

Respondent

APPEARANCES

For the Workman : Workman in person

For the Management : Mr. Yogesh Putney,
Advocate

AWARD

The Government of India, Ministry of Labour, vide their notification No. L-42012/94/2004-IR(CM-II) dated 31-3-2005, referred the following dispute for the adjudication of this Tribunal :

“Whether the action of the management of PGI, Chandigarh in terminating the services of Sh. Jagdish Singh, Chowkidar w.e.f 31-08-2003 is legal and justified? If not, to what relief the workman is entitled to?”

Upon receipt of the reference, notices were issued to the parties. Workman appeared in person whereas the Management appeared through their counsel. On 8th of June 2005, there started as dialogue between the parties about the compromise and the parties sought time to make statement in the Court. The modelities of the compromise could not be settled by 15th of June 2005, the next date fixed in the case and the parties requested for more time. The matter remained in the same position even on 30th of June 2005. In 1st of July, on being satisfied that the parties

have failed to compromise in the matter, the Court directed the workman to file his claim petition on 28th of July 2005, that is, Management and made the statement that the Management has assured him reinstatement in service, in case he does not claim back wages. He admitted to have accepted the offer and requested that he may be allowed to withdraw the case and the reference be dismissed as withdrawn. The counsel for the Management, by remaining silent, apparently gave his tacit consent. He has not opposed the dismissal of the reference as withdrawn. Thus the Management has tacitly admitted the claim, made by the workman.

Since the parties have compromised and are not interested to get the matter decided on merit, therefore, the reference is deemed to have been withdrawn by the workman. It is answered in these terms. Let the file go to the records after due completion. A copy of the Award be sent to the appropriate Government for necessary action.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4616.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1240/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-06 को प्राप्त हुआ था।

[सं. एल-22012/45/2005-आई.आर.(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4616.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1240/2006) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen which was received by the Central Government on 7-11-2006.

[No. L-22012/45/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : **Shri Kuldip Singh**

Case No. I. D. No. 1240/2006

Registered on : 30-1-2006

Date of Decision : 11-10-2006

Bant Singh C/o Shri Amarjeet Singh Jattan and Sanjeev Kumar Bawa, Authorised Representative, R/o 2782, Phase-7, Mohali, Ropar

Petitioner

Versus

The District Manager, Food Corporation of India, Sangrur
Respondent

APPEARANCE

For the Workman : Mr. Sanjeev Kumar Bawa AR
For the Management : Mr. N.K Zakhmi, Advocate.

AWARD

The workman is not present. Management appears through Counsel.

It has been noted earlier that the workman is no more alive. Mr. Sanjeev Kumar Bawa who filed memo of appearance on 13th April, 2006, appeared in other cases today but not in this case. So far nobody has come forward to claim as the legal Representative of the workman. The workman is shown to be available through the said Sanjeev Kumar Bawa and there is no other address on which the LR's of the workman can be served. As per the notification received, a copy of the order under the consideration of this Tribunal was also forwarded to the workman on the address available to the appropriate Govt. Thus the workman received the notice of the notification but neither he nor his legal representatives have come forward to put up the case of the workman or to show that they have the right to prosecute the claim of the workman.

Vide their notification No.L-22012/45/2005[IR(CM-II)] dated 1st December, 2005 the Govt. of India has desired to know whether the action of the Management of FCI, Sangrur in terminating the services of Bant Singh, Beldar w.e.f October, 1992, was legal and justified and if not to what relief the workman is entitled to and from which date. Since neither the workman nor LR's have appeared and put forward their claim. Therefore, it cannot be said that the Management had recruited Bant Singh as Beldar and it was they who had terminated his services w.e.f October, 1992; and that their action was illegal and unjust. In the circumstances no relief can be granted to the workman. The reference is answered holding that the workman is not entitled to any relief. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4617.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 619/2005) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-06 को प्राप्त हुआ था।

[सं. एल-23012/16/2001-आई.आर. (सीएम-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4617.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 619/2005) of the Central Government Industrial Tribunal/Labour Court, No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of BBMB and their workmen which was received by the Central Government on 7-11-2006.

[No.L-23012/16/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer: Shri Kuldip Singh

Case No. I. D. No. 619/2005

Registered on : 24-08-2005

Date of Decision : 19-09-2006

Mohinder Singh C/o Shri R. K. Singh Parmar, 211-L, Brari P. O. Pratap Nagar, Nangal Dam, Ropar

Petitioner

Versus

The chief Engineer (Power Wingham) Generation, BBMB,
Nangal Township, Ropar

Respondent

APPEARANCES

For the Workman : Mr. R. K. Singh Parmar
Authorized Representative

For the Management : Mr. N. K. Zakhmi Advocate

AWARD

The matter was listed today for the evidence of the workman. Instead of producing the workman for his statement, his representative stated at bar that for technical reasons he wants to withdraw from the prosecution of this case. His statement has been recorded and he has stated that he withdraws from the case on technical grounds and seeks permission to file fresh one. The Management has shown no objection to the withdrawal of the case by the workman. They have however opposed the grant of permission to file fresh one. After hearing the representatives of the parties I have found that the workman has reason to withdraw from prosecution on technical grounds. The interest of justice demand that he should be allowed to withdraw the case. The Management has failed to show me as to why the workman is not allowed to file fresh one if he can otherwise file the same under law. The permission is granted to the workman to file fresh claim.

The workman has withdrawn from prosecution this case and has not produced any evidence to show that the termination of his services by the Chief Engineer (Power Wing) Generation BBMB, Nangal Township, Ropar w.e.f 28th Feb., 1999, was illegal and unjustified. Otherwise also there is no evidence to show that the Management violated the provisions of law in terminating the services of the workman. In view of this the workman is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4618.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 2 चण्डीगढ़ के पंचाद (संदर्भ संख्या 507/2K5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[मं. एल-23012/26/2000-आई आर(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4618.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 507/2K5) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-23012/26/2000-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case No. I.D. No 507/2k5

Registered on 22-08-2005

Date of Decision 12-10-2006

Nanak Chand S/o Shri Chittru Ram

C/o Shri R.K. Singh Parmar Secretary,

Punjab Intuc, Nangal Township,

District Ropar (Punjab)

Petitioner

Versus

The Chief Engineer,

System Operation, BBMB,

Sector-19-B, Madhya Marg,

Chandigarh

Respondent

APPEARANCE

For the Workman : Mr. R.K. Singh Parmar AR

For the Management : Mr. Vijay Sharma Advocate.

AWARD

The following reference was received by this Tribunal for adjudication for the Govt. of India vide their No. L-23012/26/2000-IR(C-II) dated 30th May, 2001:

"Whether the action of the Chief Engineer, system operating, BBMB, Chandigarh in terminating the services of Shri Nanak Chand S/o Shri Chittru Ram w.e.f 16-6-1989 and rejection of his representation for regularization of service vide order dated 21st March, 1997 is legal and justify? If not, to what relief the workman is entitled to?"

The Notice of the reference was given to the parties, who appeared through their representatives. The workman filed statement of claim, his affidavit. He also appeared as a witness in support of his claim and also placed on record photo copies of some documents. The Management filed their Written Statement accompanied by photo copies of documents marked as Annexure R-1 and R-2. They also tendered the affidavits of Messrs P.S. Sinha, R.P. Singh and also placed on record the copy of judgement of the Himachal Pradesh High Court passed in the case of Lal Chand and others V/s BBMB and others being CWP 1602 1996 decided on 9th October, 1996 and another judgement passed in the case of Sewak Ram and others V/s BBMB CWP 2290 of 1995, decided on 17th October, 1996. They also placed on record the letter of Chief Engineer, System Operation BBMB, Chandigarh bearing No. 1265, the daily wage representation dated 21st March, 1997. The Management also produced Shri R.P. Singh as witness in support of their claim.

Stated in brief the claim of the workman is that he was engaged as a daily wager tracer/draftsman by the Management on 1st August, 1988 and he served them up to, 5th June, 1989. His services were terminated by the Management without issuing him three month's notice and also without making him the payment of retrenchment compensation. He remained without employment till 31st October, 1990. The Management re-employed him from November, 1990 till March, 1992 and during that period his service remained continuous. Despite that the Management did not give him notice of three month's before terminating the services nor paid him the retrenchment compensation nor wages for the notice period. They also did not prepare the seniority list of the category of employees of the workman before terminating his services. They further violated the provisions of the Industrial Dispute Act, for short, Act, by retaining his juniors while terminated his services. The juniors were regularized by the Management later on.

The Management has claimed that they did not terminate the services of the Workman and it was the workman who had left the service at his own will. When this witness Shri R. P. Singh was questioned, he admitted that the Management had not filed any inquiry nor it was thought necessary to hold one to find out as to why the

workman had not reported for duty after 16th June, 1989. The workman has denied the assertion of the Management that he had left the job at his own. In that situation it was incumbent upon the Management to have inquired into the matter as to why the workman had not reported for duty since the workman had by then earned a statutory right and the Management could not easily wash their hands, on the grounds that the workman has left the job at his own. It is true that the workman was re-engaged by the Management from November, 1990 till March, 1992. But if he did not work for 240 days during that spell of the engagement, it could not take away his statutory right earned by him after having put in a continuous service of 240 days during 1988-1989.

The Management has admitted that they had not issued any notice to the workman before terminating his services in the year 1989 or even in the year 1992. They further admitted that they had not paid any retrenchment compensation to the workman. Thus the Management, as it seems, disengaged the services of the workman without following the provisions of Section-25-F of the Act. This made the disengagement of the workman as retrenchment without following the provisions of the Act. The termination of service of the workman was, therefore, bad in law and it is declared so.

The workman has, however, failed to show that the Management had also violated the provisions of Section-25-N. He has further failed to show that the Management had engaged more than one hundred workmen, therefore, it was required of the Management to have issued three months notice to him before terminating his services. The workman even did not put such a suggestion to the witness of the Management nor he himself claimed in his statement that the Management had engaged more than one hundred workman so as to warrant them to issue three-month's notice to the workman before terminating his services. The claim made by him in para No.5 of his Claim Petition was denied by the Management when they claimed that the Management had not violated the provisions of Section 25-N. In that situation it was the duty of the workman to have proved this fact so as to entitle him to get the relief. For these reasons the claim made by him was not maintainable under Section 25 of the Act.

The Management has submitted that the workman is not entitled to the relief of regularization since the same was refused to him by the High Court of Himachal Pradesh to which the workman had approached by way of writ. This claim of the Management itself becomes contradictory when they themselves admitted that the Hon'ble High Court had allowed the workman to make a representation to the Chief Engineer concerned in case he had rendered continuous service of 240 days and there was a post available on 31st August, 1993. By their admission, which gets support from the judgement of the H.P High Court, placed on record, the claim of the workman for regularization was not altogether rejected by the Hon'ble High Court,

rather they had assigned the consideration of his claim to the Chief Engineer concerned. The Management then submitted that in compliance to the directions to the High Court, the workman did not make a representation to the Chief Engineer rather he submitted the representation to the Superintending Engineer, yet the Chief Engineer concerned considered the same and found that the workman was not entitled to the relief of regularization. They have placed on record the copy of the letter No. 1265/daily wage/Rep. dated 21st March, 1996. I have perused the letter, a copy of which is on record. The Chief Engineer has rejected the claim of the workman solely on the ground that since the workman had not worked continuously for 240 days, preceding 31st August, 1993, therefore, he was not entitled for regularization against any of the post available. The Chief Engineer, therefore, did not say that no post was available, to be given to the workman, in case he was found eligible for regularization. The regularization of the workman was not found due to him solely on the ground that he had not put in 240 days continuous service preceding the date of his disengagement. As discussed above this conclusion of the Chief Engineer was not correct. As is held the workman had rendered more than 240 days or continuous service preceding June, 1989 when his services were first terminated by the Management. The workman, therefore, was entitled for regularization and the rejection of his representation by the Chief Engineer dated 21st March, 1993 was illegal and unjustified. There is also no merit in the claim of the Management that the present reference was barred by the principle of res-judicata since the claim of the workman had been examined and decided by Hon'ble High Court and he could not re-agitate the same in this Tribunal. It has been noticed that the Hon'ble High Court of H.P did not finally decide the merits of the claim of the workman, rather they authorized the Chief Engineer to examine and find out whether he had served the Management continuously for 240 days within 12 months preceding the date of termination of his services and if it is found that he had rendered, that amount of service and there was a post available on 31st August, 1993, the workman be regularized on the said post. The High Court, therefore, had not finally decided the merits of the claim of the workman and whatever direction they gave cannot be operate as a res-judicata in the case of the workman.

Now the question arises as to what relief the workman is entitled to. In view of the discussion made above the act of the Management in disengaging the workman from their service w.e.f. July, 1989 is declared as bad in law. The workman is treated to be in service as if there was no such disengagement of the workman from the services of the Management. It has come on record that the workman was re-engaged from October, 1990 to March, 1992 and then again his services were disengaged. Therefore, the workman is entitled to back wages and all other service benefits which he would have got what for

his disengagement of his services of the Management except for the period he was given re-employment by the Management from October, 1990 to March, 1992. The next question which now comes for consideration is, as to what amount or back wages the workman is entitled to. In his Claim Petition the workman stated that he had tried to seek employment at other places but could not get any engagement and has lived in extreme poverty all through this period. This claim may not be fully true, but the Management has failed to produce any evidence to rebut this claim. It cannot be accepted that the workman all through this period did not work at all. It may not have earned that much as he would have earned what for his disengagement. But he must have worked i.e. he survived and also supported his family. In the circumstance he is entitled to back wages which he would have otherwise earned what for his disengagement. Therefore, allow back wages to the tune of 25% to the workman.

The next point of reference was whether the rejection of representation of the workman, by which he had sought regularization in service, was legal and justified. I have considered this question above and I hold that the rejection of representation of the workman was not based upon the facts and therefore was bad and unjustified. The workman is, therefore entitled for regularization in service from the day, if not earlier, his juniors were regularized in service as is claimed by him. As a result of regularization the workman shall get all benefits which he would have got what for the rejection of his representation by the concerned Chief Engineer.

The reference is replied in the terms of the discussion made above holding that the workman is treated to be in service all through the period, from the date of his disengagement in June, 1989 as if there was no order of termination of his services and that he will be entitled to 25% of wages from that date. The Management is directed to pay the back wages to the workman within 3 months from the date of enforcement of this award. Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4619.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं.-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 933/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-22012/81/2001-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4619.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 933/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 7-11-2006

[No.L-22012/81/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II
CHANDIGARH**

Present: Shri Kuldip Singh,
Presiding Officer

Case No. I.D. No 933/2005

Registered on 14-9-2005

Date of Decision 18-9-2006

Kashmir Singh C/o General Secretary,
Trade Union Council,
Patiala

Petitioner

Versus

The Assistant Manager (D),
Food Corporation of India,
Dharamkot

Respondent

APPEARANCE

For the Workman : Mr. Tejinder Singh and
Sarabjit AR.
For the Management : Mr. N.K. Zakhmi
Advocate.

AWARD

The workman continues to be absent. Management appears through Counsel.

The record of the file shows that the workman never appeared after the case was transferred to this Tribunal. Even in the previous Tribunal he did not appear in person. This Tribunal issued notices to the workman, but of no avail. Finally a notice under R/C was issued to the workman on 14th July, 2006 under Postal Receipt No. 211. So far neither the R/C carrying the notice has been received back nor the workman is present. This shows that the workman is not present despite the expiry of statutory period; and that the notice was served upon him. It is in these circumstances the case is being disposed of in the absence of workman.

The appropriate Govt. vide their reference No. L-22012/81/2001-IR (CM-II) dated 22nd July, 2002 referred the dispute to this Tribunal for adjudication in the terms:

"Whether the action of the Management of Food Corporation of India in terminating the services of Sh. Kashmir Singh S/o Shri Tehal Singh is legal and justified? If not, to what relief he is entitled to?"

The Notice of the reference was given to the parties who appeared through their Representative/Counsel. The workman filed his Claim Petition to which the Management filed the Written Statement and the affidavit of their witness, A. C. Pabby. The workman neither filed his affidavit nor appeared in person to stand to the cross examination of the Management. On record I do not find any evidence to show that the workman was engaged by the Management through a Contractor and he served them for one and a half year; that the Management terminated the services of the workman illegally, when he was getting salary at the rate of 1400/- per month; that the workman has remained without service right from day his services were terminated. On the part of the Management, they have denied the claim of the workman in toto when they stated that the workman was neither engaged by them directly nor there existed a relationship of master and servant between the parties. Admitting that the workman was posted with the Management, by the Contractor, whose services were engaged by the Management. They denied all the assertions made by the workman and stated that the workman has no cause to maintain the petition. According to them the Management had entered into a contract with the Police through their Director General and that the workman remained gainfully employed after his disengagement.

Since, there has come no evidence from the workman to support his claim. Therefore, it cannot be said that his services were terminated by the Management and their order was illegal and unjustified. In view of this it is held that the workman is not entitled to any relief. The award is passed in the above terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

का.आ. 4620.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में, केन्द्रीय सरकार रीजनल कॉफी रिसर्च स्टेशन के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 37/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/76/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4620.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Regional Coffee Research Station, and their workmen, which was received by the Central Government on 7-11-2006.

[No. L-42012/76/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 25th July, 2006

Present: K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 37/2005

In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Regional Coffee Research Station and their workmen

BETWEEN

Smt. H. Janaki

I Party/Petitioner

AND

The Director,

II Party/Management

Regional Coffee

Research Station,

Coffee Board, Thandigudi.

APPEARANCE:

For the Petitioner

M/s. S.N. Ravichandran,

Advocate

For the Management

M/s. N.R. Rajagopalan,

Advocate

AWARD

The Central Government, Ministry of Labour vide Order No. L-42012/76/2004-IR (CM-II) dated 4-4-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows:—

Whether the claim of Smt. H. Janaki for reinstatement with back wages against the management of Regional Coffee Research Station, (RCRS) Coffee Board, Thandigudi, Dindigul is legal and justified? If yes, to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 27/2005 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statements and Counter Statements respectively. The Petitioner contended that she alleged that the Respondent/Management had suppressed her age and that she was actually 58 years old on 31-12-2002. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner joined as an adult maid in the Respondent/Management and she was made permanent on 10-7-72. While on the Respondent/Management has fraudulently and allegedly issued a memo dated 6-12-2002 to the Petitioner contending that she attained the age of superannuation on completion of 58 years on 31-12-2002 and on that day she would be retired from service. The Petitioner is an illiterate lady does not know her date of birth. On account of alleged superannuation, she was paid a sum of Rs. 11,046/- towards service gratuity and subsequently the Respondent/Management forwarded papers to EPF for pension under the EPF scheme. By letter dated 21-3-2003 the Employees' Provident Fund Organisation has stated that it is difficult to settle the PF amount to the Petitioner for the reasons that the Petitioner has not attained the age of superannuation and also stated that she will attain the age of 58 years only on February, 2014. Then only the Petitioner knew that she would attain the age of 58 years in 2014 and hence she will have further 12 more years of service. Therefore, she made a representation on 6-5-2003 along with a letter dated 21-3-2003 to the Respondent/Management requesting them for her reinstatement in service. But even after several representations, the Respondent/Management denied reinstatement of the Petitioner by a letter dated 28-5-2003 stating that she was superannuated based on documents and medical certificates submitted by the Petitioner. The alleged medical certificate was not submitted by the Petitioner to the Respondent but the same was obtained by Respondent/Management with the duty doctor at the time of routine visit by the duty doctor to the estate and the Respondent fraudulently obtained the signature of the Petitioner and the Doctor must have issued the said certificate without conducting any test required to ascertain the age of the Petitioner. Therefore, the Petitioner raised a dispute before Assistant Labour Commissioner, District, but since the Respondent/Management comes under the purview of Ministry of Commerce of the Central Govt. the Assistant Labour Commissioner has stated that he has no jurisdiction to decide the dispute and as such, he referred the Petitioner to raise a dispute before Assistant Labour Commissioner (Central) and subsequently, the Petitioner raised the dispute before Assistant Labour Commissioner (Central) and in the failure of conciliation, the dispute was referred to this Tribunal for adjudication. In the meanwhile, the Petitioner has made a representation to the Chairman, Coffee Board, Bangalore for reinstatement and he in turn, sent the same to the Respondent/Management and the

Respondent requested the Petitioner to appear before them on 22-3-2005 and on the said date the Petitioner appeared before enquiry and submitted her explanation with regard to superannuation. On 4-4-2005, the Respondent/Management contended that she will be provided employment on temporary basis till the age of 60 years for getting an EPF pension on the condition that she will withdraw the case and will not claim continuity of service and also forego the back wages from the date of premature superannuation till re-employment. The action of the Respondent/Management is a clear case of illegal termination and is not superannuation. But for the wrongful and malafide act of the Respondent, the Petitioner is not entitled to continue in service till 2014. Hence, the Petitioner prays to set aside the order dated 31-12-2002 passed by the Respondent and direct the Respondent/Management to reinstate the Petitioner as maid with back wages and continuity of service and all other attendant benefits.

3. As against this, the Respondent/Management contended that the Petitioner joined the services of Respondent as an adult maid in 1972. At that time, no records were produced by the Petitioner to prove her date of birth. It is alleged that she has been fraudulently superannuated from the position on 31-12-2002. Even so, even if it is assumed that she had stated upon with truthful and correct information that she is an illiterate one and she does not know her date of birth, the fact that the Respondent/Management has not produced any records to prove that the Petitioner had attained the age of superannuation on 31-12-2002 and the office records maintained by the Respondent would show that the Petitioner was due to retire on 31-12-2002. She never raised a dispute before the Respondent about the date of birth and age during her service in the Respondent. Further, the Petitioner has already received gratuity and only while applying for EPF Pension, her claim was rejected by the authorities for the reason that she pointed out in EPF that the Petitioner retires only in the year 2014. The Petitioner's present claim is based on EPF document which states age of superannuation as 31-12-2002 and therefore, she cannot claim any benefit under the EPF. The Petitioner or her counsel has not produced any medical certificate to prove that the Respondent/Management has obtained the medical certificate fraudulently. The medical examination conducted on 17-12-2002 in which it was clearly proved that the age of Petitioner is 58 and thereafter, the Petitioner was superannuated on 31-12-2002. No doubt, the Respondent has offered a job but it was considered the employment of the Petitioner on temporary basis purely on sympathetic ground to enable to get employees' Provident Fund from the authorities. In this case, if it is the case of superannuation, there is no termination, dismissal, discharge or retrenchment of the services of Petitioner to attract Section 2A of the I.D. Act. Hence the above dispute is not maintainable. Even otherwise, the date of birth given in EPF records and the Transfer Certificate issued by the

school in, which she was alleged to have studied does not tally, hence no reliance can be placed. OR both these records. In any, event she has already been, terminated, and she is not entitled to reinstatement and continuity of service as alleged by her. The Petitioner having admitted her age and retired after receiving gratuity and other retirement benefits cannot question the same and she cannot be allowed to approbate and reprobate at the same time. Hence, for all these reasons, he prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are -

- (i) "Whether the claim of the Petitioner for reinstatement with back wages against the Respondent/Management is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No.1:-

6. In this dispute, the admitted facts of both sides is that the Petitioner joined as an adult mazdoor under the Respondent/ Management on 10-7-72 and she was subsequently made permanent w.e.f. 17-7-72 and on 16-12-02 the Respondent/Management has issued a memorandum to the Petitioner contending that she has attained the age of superannuation on 31-12-2002, but the Petitioner contended that she has not attained the age of 58 years as on 31-12-2002 and it was known to her only from the letter of EPF authorities. In that letter dated 21-3-2003, the Employees Provident Fund Organisation has stated, that since; the Petitioner has not attained the age of 'superannuation and since she will attain the same only in February, 2014, the application given by the Respondent/ Management cannot be entertained and only from that letter, the Petitioner 'came to know that she has not attained the age of superannuation and since she has studied only up to 1st standard, she has' no knowledge about her date of birth and the date of birth mentioned in the records of Respondent/ Management are put by the Respondent/ Management without the knowledge of the Petitioner and therefore, the Respondent/ Management prematurely retired her on 31.12.2002 and therefore, she prays this Tribunal to set aside the order of Respondent/Management and to reinstate her into service with all benefits.

7. But as against this, the Respondent/Management contended that all the office records maintained by the Respondent would show that the Petitioner was due to retirement on 31-12-2002 and the Petitioner has never raised even a whisper about her date of birth and age during her service under the Respondent/Management. Further more, the Petitioner after retirement has already received the gratuity and while applying for EPF, the claim of the Petitioner was rejected by the authorities for the reason that as per their records in EPF, the Petitioner retires only in 2014 and therefore, they have stated that they cannot consider, the request of the Respondent/Management. The

Petitioner's present claim is based only on EPF records in which her age of superannuation is inadvertently mentioned as 2014 and on that ground, she is not entitled to claim the relief as prayed for in this dispute. Further, it is alleged that the Petitioner, consequent to the memo issued by the Respondent, on 16-12-2002 has submitted herself to medical examination conducted on 17-12-2002 in which it was clearly proved that the age of Petitioner was 58 and only thereafter the Petitioner was superannuated on 31-12-2002 and her claims have been duly paid and she is estopped from claiming reinstatement and she has waived her right to reinstatement as she received gratuity and other benefits after her retirement.

8. But, again the Petitioner contended that she has studied upto 1st standard and she has produced school record sheet given by the Panchayat Union Primary School in which it is clearly mentioned that her date of birth is 5-6-1957 and therefore, it cannot be said that she has completed 58 years as on 31-12-2002. It is further contended on behalf of the Petitioner that at no point of time the Respondent/Management has required the date of birth of the Petitioner. Further, the Respondent has not stated that under which document or under whose request the date of birth was mentioned as such in the office record. Further, they have not produced the office records before this Tribunal to establish that the entry made in office records are bonafide. Even though the Respondent alleged that the Petitioner voluntarily submitted herself for medical examination on 17-12-2002 and the doctor has given a certificate to the effect that the Petitioner has completed 58 years, there is no proof that the Petitioner has voluntarily submitted herself for medical examination and further, the Respondent has not stated what was the necessity to obtain a certificate from the Doctor on the eve of retirement. Under such circumstances, the Respondent himself has mentioned a wrong date of birth and has fraudulently terminated the services of the Petitioner on the allegation that she has attained the age of superannuation and therefore, the Petitioner is entitled to the relief as prayed for in this dispute.

9. In order to establish her contention, the Petitioner examined herself as WW 1 and has produced 26 documents which are marked as Ex. W 1 to W2 and she has examined her husband as WW2, who is still in the services of the Respondent/Management to establish that the Petitioner is not completed the age of 58 years as on 31-12-2002.

10. As, against this, the Respondent examined one Mr. Royar, Junior: Liaison Officer of the Respondent/ Management and, they have produced documents Ex. M1 to M11. Ex. M1 is the copy of signature in the 'certificate given by Doctor. Ex. M2 is the authorisation given Respondent to Mr. A. Royar to represent the case. Ex. M3 is the copy of application given by the Petitioner for gratuity after the date of retirement. Ex. M4 is the copy of notice for payment of gratuity. Ex. M5 is the copy of, letter given by the Petitioner for vacating the quarters. Ex. M6 is the copy

of the letter given by Petitioner for pension. Ex. M7 is the copy of letter sent by Respondent/Management to EPF organisation. Ex. M8 is the copy of letter sent by Respondent/Management to Secretary, Coffee Board with regard to list of permanent mazdoors. Ex. M9 is the copy of musterroll and Ex. M10 is the copy of register for June, 1985 and Ex. M11 is the copy of age certificate given by the Doctor.

11. Learned counsel for the Petitioner contended that if really, the Petitioner has given her age at the time of joining the Respondent/Management, the Respondent can validly contend that the Petitioner herself has given the date of birth and as such, she cannot claim a correction in the date of birth mentioned in the office records. But, it is clear from Ex. M7 namely, letter submitted, by the Respondent/Management before EPF authorities wherein the Respondent/Management has clearly stated that at the time of joining the Petitioner has not given the date of birth and no records at the time of her joining the service are available in the Respondent/Management. The register of adult mazdoor is maintained in their establishment since January, 1982 i.e. ten years after the joining of the Petitioner. In that register, the age of all adult workers were mentioned since January, 1985 regularly. As per entries in the register the age of the Petitioner was 40 years as on 1-1-85 and was 57 years on 1-1-2002 and as such, the Petitioner has completed 58 years on 31-12-2002. But in that letter, the Respondent/Management has not stated how they have mentioned the age of the Petitioner during the year 1985 as 40 years, whether it was a voluntary admission or by medical examination. Under such circumstances, it cannot be said that the records of the Respondent/Management are maintained in proper course. Further, the Respondent/Management has not stated who has given the age of the Petitioner in the P.F. Records. It is the Respondent/Management alone has to give the age of workers in the P.F. application. The Respondent/Management has also not stated how the alleged error has been committed by the Respondent/Management in giving a wrong date in the P.F. application of the Petitioner. As such, it cannot be contended that the records maintained by the Respondent/Management are in due course and it should be believed by this Tribunal. On the other hand, the Petitioner has produced Ex. W22, which is the record sheet given by the Headmaster Panchayat Union Middle School, Kuttupatti in Natham Union, wherein it is mentioned that Smt. C. Janaki, namely the Petitioner's date of birth as 5-6-1957, which is recorded in the record sheet during her admission on 17-6-1963. No doubt, the Petitioner has obtained this in the year 2003. But, on that ground it cannot be said that the records maintained by the school is created for the purpose of this case. Learned counsel for the Petitioner further contended that with regard to proof of age, birth certificate is the primary evidence, but in the absence of birth certificate, school records can be looked into and in this

case, the Petitioner has school records and hence, at no stretch of imagination, it can be said that this document was created for the purpose of this case. Therefore, the age mentioned by the Respondent authorities in their records are without any proof and they have mentioned the age of the Petitioner as 40 years in the year 1985 without any proof. Under such circumstances, the superannuation given by the Respondent authorities is illegal.

12. But, as against this, learned counsel for the Respondent contended that no doubt at the time of joining the Respondent/Management has not required the Petitioner to produce the proof for, the date of birth. But, subsequently, from the year 1985, the Respondent/Management has maintained records in which it is clearly stated that she has completed 40 years in the year 1982. But, the Petitioner has not raised any murmur or whisper about the date of birth during her service after 1985. She has not made any application for change of her age and date of birth before the Respondent authorities. Furthermore, after the letter under EX. W3 the Petitioner has received the amount of gratuity entitled to her and only when she has made an application for pension and EPF, she came to know that her age was not 58 during 2002 and she has made a representation. It is also pertinent to note that after the memorandum given by the Respondent authorities, the Petitioner voluntarily submitted herself before the Medical Officer and obtained the certificate on 17-12-2002 which is marked as Ex. M11, wherein the Doctor has clearly stated that the Petitioner has completed the age of 58 years and she has also put her signature in that letter. Under such circumstances, merely because an entry was made in EPF records, it cannot be said that the Petitioner has not completed 58 years during the year 2002.

13. No doubt, I find some force in the contention of the Respondent. But as I have already stated that the Respondent/Management has not stated how they have recorded the age of Petitioner as 40 years during 1985 and further, the witness examined on the side of the Respondent has also stated that they have no records to show that the Petitioner's age was 40 during the year 1985 and further stated that the Respondent/Management has not requested the Petitioner to produce documents to prove her age. Under such circumstances, I am not inclined to accept the contention of the learned counsel for the Respondent that the Petitioner has already received the gratuity and other terminal benefits and therefore, she is estopped from claiming the reinstatement and she has waived her right to reinstatement as she received her benefits after her retirement.

14. Further learned counsel for the Respondent relied on the rulings reported in 1967 111 J 108 HINDI STRIP MINING CORPORATION LTD. Vs. CGIT, DHANBAD AND ORS. wherein the Patna High Court relied on the rulings of Supreme Court 1964 111 J 333, wherein the

Supreme Court has held that "technical plea of estoppel is out of place in an industrial dispute. The retrenchment benefit received must be either paid back or else these sums should be adjusted while calculating the back wages, allowances and bonuses payable to them." Under such circumstances, the plea of estoppel pleaded by the Respondent is of no use. Then the learned counsel for the Respondent relied on the rulings reported in 1997 5 SCC 181 STATE OF ORISSA & ORS Vs. RAMANATH PATNAIK wherein the Respondent workman retired from service on 31-12-76 and in the year 1981 only he filed a suit against the rejection of his representation for correction of his date of birth, in which the Supreme Court has held, that "when entry was made in service record and when the Respondent was in service he did not make any attempt to have the service record corrected and therefore, any amount of evidence produced subsequently would be of no avail." He also relied on the judgement of Supreme Court reported in 1994 6 SCC 302 STATE OF TAMIL NADU Vs. T.V. VENUGOPALAN wherein the Supreme Court has held that "Supreme Court has repeatedly been holding that inordinate delay in making application is itself a ground for rejecting the correction of date of birth. The Govt. servant having declared his date of birth as entered in the service register to be correct, would not be permitted at the fag end of his service career to raise a dispute as regards the correctness of entries in the service register." Learned counsel for the Respondent further relied on the rulings reported in 2003 6 SCC 483 STATE OF U.P. AND OTHERS Vs. GULAICHI wherein the Supreme Court has held that "of late, a trend can be noticed that many public servants on the eve of their retirement raise a dispute about their records, by either invoking jurisdiction of High Court under Article 226 of Constitution or by filing application before Administrative Tribunals concerned, or even filing suits for adjudication as to whether the date of birth recorded were correct or not. An application for correction of date of birth should not be dealt with by the Courts, Tribunals, or High Court keeping in view only the public servant concerned. Any such direction for correction of date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury. As such, unless a clear case on the basis of materials which can be held to be conclusive in nature is made out by Respondent and that too within a reasonable time as provided in rules governing the service, the Court or Tribunal should not issue a direction or make a declaration on the basis of materials which make such claim only plausible." Relying on these decisions, learned counsel for the Respondent contended that only after retirement, the Petitioner has made a representation that her real date of birth is 5-6-1957 and she has produced a document alleged to be school record, but she has not made any representation about her age mentioned in the records of

Respondent/Management and the same is incorrect. Under such circumstances, the claim of the Petitioner cannot be entertained at this belated stage.

15. But, as against this, learned, counsel for the Petitioner contended that no doubt, the Supreme Court has deprecated in number of cases for such correction in the fag end of service of employee. But, in this case, the Respondent has categorically admitted that they have not required the Petitioner to give her date of birth at the time of joining and they have also admitted that they have not requested the Petitioner to prove her age even at later stage. Under such circumstances, it cannot be said that the Petitioner has given her age as 40 in the year 1985. The Respondent himself has made an entry in the records without any proof and without any admission by the Petitioner. Under such circumstances, when it was questioned it can be rectified. Further, in this case, the Petitioner has produced relevant records which prove conclusively that the date of birth of Petitioner is 5-6-57. Under such circumstances, the rulings relied on by the learned counsel for the Respondent are not applicable to the facts of this case.

16. I find much force in the contention of the learned counsel for the Petitioner because in this case, it is not established that the Petitioner has voluntarily given her age as 40 during the year 1985. Further, there is no records in the Respondent/Management to show that the Petitioner has given her date of birth voluntarily, on the other hand, in the P.F. records her date of retirement is mentioned as 2014. Without the knowledge of the Respondent/Management the application for Provident Fund cannot be given to the P.F. authorities. Under such circumstances, the Respondent/Management without any care has noted the age of the Petitioner as 40 years during 1985 and they have made to retire the Petitioner in the year 2002. As such, I find the claim of the Petitioner for reinstatement against the Respondent/Management is legal and justified.

Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

17. In view of my foregoing findings that the claim of the Petitioner with regard to reinstatement is legal, I find the Petitioner is entitled to the relief as prayed for. But with regard to back wages, since the Petitioner has made the claim only after one year i.e. 2003, after the Respondent/Management made the Petitioner to retire, I find the Petitioner is entitled to half of the back wages. Therefore, I direct the Respondent/Management to reinstate the Petitioner into to service forthwith as Mazdoor with continuity of service and all other attendant benefits, but with regard to back wages, I find the Petitioner is entitled to half of the back wages. No Costs.

18. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 25th July, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Petitioner : WW1 Smt. Janaki
WW2 Sri Hussain Barot @ Raja

For the II Party/
Management : MW 1 Sri Royar

Documents Marked:—

For the I Party/Claimant:-

| Ex. No. | Date | Description |
|---------|----------|--|
| W1 | 17-07-72 | Xerox copy of the service book |
| W2 | Nil | Xerox copy of the leave account of Petitioner |
| W3 | 16-12-02 | Xerox copy of the memo issued by Respondent to Petitioner |
| W4 | 31-12-02 | Xerox copy of the relieving memo issued by Respondent |
| W5 | 07-01-03 | Xerox copy of the letter from Respondent settling gratuity amount to Petitioner |
| W6 | 21-03-03 | Xerox copy of the letter from EPF Organisation to Petitioner |
| W7 | 06-05-03 | Xerox copy of the representation given by Petitioner to respondent/Management |
| W8 | 26-05-03 | Xerox copy of the representation given by Petitioner to Respondent/Management |
| W9 | 28-05-03 | Xerox copy of the letter from Respondent to Petitioner with regard to reinstatement |
| W10 | 07-06-03 | Xerox copy of the representation by Petitioner to Labour Officer |
| W11 | 04-07-03 | Xerox copy of the submissions filed by Respondent before Assistant Labour Commissioner (Central) |
| W12 | 07-08-03 | Xerox copy of the letter from ALC to Petitioner direct her to raise dispute before Assistant Labour Commissioner (Central) |
| W13 | 26-09-03 | Xerox copy of the letter from EPF organisation to Respondent/Management and copy endorsed to Petitioner |
| W14 | 05-11-03 | Xerox copy of the reply filed by Respondent before Assistant Labour Commissioner (Central) |
| W15 | 13-11-03 | Xerox copy of the submissions of Respondent before Assistant Labour Commissioner (Central), Madurai |

| | | |
|-----|----------|--|
| W16 | 16-02-04 | Xerox copy of the written submissions filed by Petitioner before Assistant Labour Commissioner (Central) |
| W17 | 03-03-04 | Xerox copy of the counter filed by Respondent/Management before Assistant Labour Commissioner (Central) |
| W18 | 31-03-04 | Xerox copy of the failure of conciliation report |
| W19 | 08-11-04 | Xerox copy of the representation given by Petitioner to Chairman of Respondent/Management |
| W20 | 11-01-05 | Xerox copy of the letter from respondent/Management to Petitioner |
| W21 | 19-01-05 | Xerox copy of the letter from Petitioner to Respondent/Management |
| W22 | 21-04-03 | Xerox copy of the record sheet of the Petition |
| W23 | 19-04-03 | Xerox copy of the certificate given by VAO to Petitioner |
| W24 | 17-03-05 | Xerox copy of the letter from Respondent to Petitioner |
| W25 | 31-03-05 | Xerox copy of the letter from Petitioner to Respondent Requesting for re-employment |
| W26 | 08-04-05 | Xerox copy of the reply given by Respondent to Petitioner |
| W27 | Nil | Xerox copy of the identity card issued to WW2 by Respondent/Management |

For the II Party/Management :—

| Ex. No. | Date | Description |
|---------|------------|---|
| M1 | 17-12-02 | Xerox copy of the signature of Petitioner in age certificate |
| M2 | 28-02-06 | Xerox copy of the issued to MW 1 by Respondent |
| M3 | 01-01-03 | Xerox copy of the application of gratuity submitted by Petitioner |
| M4 | 08-01-03 | Xerox copy of the notice for payment of gratuity |
| M5 | 05-01-03 | Xerox copy of the letter submitted by Petitioner to Respondent |
| M6 | 05-06-03 | Xerox copy of the letter from Petitioner to PF authorities |
| M7 | 22-08-03 | Xerox copy of the representation given by Petitioner to Assistant Commissioner, EPF organisation |
| M8 | 18-08-92 | Xerox copy of the letter sent by Respondent to Secretary, Coffee Board regarding list of permanent mazdoors |
| M9 | July, 1972 | Xerox copy of the master roll |
| M10 | June, 1985 | Xerox copy of the register |
| M11 | 17-12-02 | Xerox copy of the age certificate |

नई दिल्ली, 7 नवम्बर, 2006.

क्र.आ. 4621.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल के पंचाट (संदर्भ संख्या 16/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-22012/219/2002-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4621.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2003) of the Central Government Industrial Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure in the industrial dispute between the management of Parascole Colliery, M/s. Eastern Coalfield Ltd., and their workman, received by the Central Government on 7-11-2006.

[No. L-22012/219/2002-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : SRI Md. SARFARAZ KHAN, Presiding
Officer

REFERENCENO. 16 OF 2003.

PARTIES : The Agent, Parascole Colliery of E.C.L.

Vs.

The General Secretary, Koyala Mazdoor
Congress, Asansol Burdwan.

REPRESENTATIVES:

For the management : Sri P. K. Das, Advocate.

For the union (Workman) : P. C. Pandey, Vice President,
Koyala Mazdoor
Congress, Asansol Burdwan.

INDUSTRY : COAL STATE : WEST BENGAL

Dated, the 7-9-2006.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/219/2002-IR (CM-II) dated 11-7-2003 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Parascole Colliery under Kajora Area of M/s. Eastern Coalfields Limited in dismissing Sh. Lachman Majhi, U.G. Loader from services w.e.f. 7-4-2001 is legal and justified? If not, to what relief is the workman entitled?"

2. On having received the Order No. L-22012/219/2002-IR (CM-II) dated 11-7-2003 of the said reference from the Govt. of India, Ministry of labour, New Delhi, for adjudication a reference case No. 16 of 2003 was registered on 21-7-2003 and accordingly an order to that extent was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and to file their statements of claim along with the relevant documents and a list of witnesses in support of their claims. Pursuant to the said order notices were issued to the respective parties through the registered post. Shri P. K. Das, Advocate appeared on behalf of the management along with a letter of authority duly issued by the competent authority. Similarly Sri P.C. Pandey, Vice President of the union appeared in the court to represent the delinquent workman.

3. From perusal of the order sheets of the record it transpires that a statement of claim along with Xerox copies of some documents have been filed by the union on behalf of the workman concerned. It is further clear from the record itself that 22-8-05 was fixed for filing written statement on behalf of the management but no written statement was even filed in the court even after granting several adjournments for the same. The record further goes to show that once the case was fixed for ex-parte hearing which was subsequently recalled at the request of the learned lawyer of the management. Thereafter several dates were fixed for filing written statement on behalf of the management but to no effect and ultimately the case was fixed for final hearing which was concluded on 7-9-06 and the award was reserved.

4. The case of the union in brief compass as set forth in the written statement is that Sh. Lachman Majhi was a permanent employee of the company as U.G. Loader at Parascole Colliery of M/s. Eastern Coalfields Limited.

5. The main case of the union is that the workman concerned absented himself from his duty w.e.f. 9-10-2000 due to his sickness which was beyond his control. After having been declared fit, the workman reported to the management but he was not allowed to resume his duty.

6. The further claim of the union is that the workman had informed to the management about his sickness even then he was charge sheeted for alleged unauthorized absence from duty. The workman concerned was not served with the charge sheet, notice of enquiry etc. and the alleged enquiry was completed ex-parte denying the principles of natural justice. The punishment of dismissal of the delinquent workman is also challenged to be disproportionate to the gravity of the alleged misconduct and the same is unjustified and illegal. The union has sought a relief of reinstatement of the workman after setting aside the order of the dismissal together with all the consequential benefit and the full back wages.

7. From perusal of the record it transpires that the workman has filed the Xerox copy of the Enquiry

Proceeding, charge sheet, dismissal letter and the enquiry report. It transpires from these official admitted documents that the delinquent workman was charge sheeted for an unauthorized absence w.e.f. 9-10-2000 to 8-11-2000 without any information and prior permission from the competent authority of the colliery. It is further clear from the enquiry report that the enquiry was held and completed in the absence of the delinquent employee. Hopna Majhi, the management's representative during the enquiry proceeding was only examined and on his sole evidence the Enquiry Officer held the delinquent workman guilty specially when the workman was absent and no opportunity to cross examine was given to him. There is no any chit of paper to show that the notices of enquiry proceeding were sent by registered post with A/D to the permanent address of the delinquent employee. There is also no whisper in the report of the Enquiry Officer in respect of sending the copy of charge sheet, enquiry proceeding along with its report. In the interest of justice sufficient opportunity should have been given to the workman to meet the charges levelled against him. So the ex-parte enquiry proceeding in absence of clear cut proof of the notices issued or served upon the delinquent can't be said to be just and proper in the eye of law as the same can't be treated to be a legal and valid domestic enquiry and that can't be the basis of the punishment to the delinquent workman. Admittedly the workman concerned was absent from his duty w.e.f. 9-10-2000 without any information or prior permission of the competent authority of the colliery. But the absence is not deliberate rather he was sick during the relevant period of absence which was beyond his control and under the said compelling circumstance he had to remain absent. It is a simple case of unauthorized absence under the compelling circumstance. There is no challenge or dispute of the facts that the workman was not sick during those relevant period. So it can't be said to be a gross misconduct for which an extreme penalty of dismissal has been imposed. It is also clear that there is no proof of the fact or even allegation of habitual misconduct against him. Besides this no second show cause notice had ever been issued or served upon him before passing the order of punishment of dismissal against him which itself a serious and deliberate violation of the mandate of the Apex Court and the principles of natural justice. Such a plain and simple case should have been dealt with by taking a lenient view by the management. It has been several time observed by the different Hon'ble Courts and the Apex Court as well that before imposing a punishment of dismissal it is necessary for the disciplinary authority to consider socio economic back ground of the workman, his family back ground, length of service put in by the employee, his passed record and other surrounding circumstances including the nature of the misconduct and lastly the compelling circumstance to commit the misconduct. These are the relevant factors which must have to be kept in mind by the authority at the time of imposing the punishment which is not done by the management in the case.

8. Under the aforesaid facts, circumstance and the discussion made I am satisfied to hold the penalty of

dismissal imposed by the employer is not just, proper and commensurate with the nature and gravity of the misconduct alleged against the workman concerned and as such in order to meet the ends of justice the impugned order of the punishment of dismissal is hereby set aside and the workman concerned is directed to be reinstated with the continuity of service along with 50% of the back wages payable to the delinquent workman and as such it is hereby

ORDERED

that let an "Award" be and the same is passed. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2006

क्र.आ. 4622.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 156/97, 85/97, 147/97, 86/97, 90/97, 150/97, 103/97, 146/97, 121/97 एवं 141/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-2006 को प्राप्त हुआ था।

[सं. एल-22012/240/1996-आई.आर. (सी-II)]

एल-22012/243/1996-आई.आर. (सी-II)

एल-22012/226/1996-आई.आर. (सी-II)

एल-22012/229/1996-आई.आर. (सी-II)

एल-22012/220/1996-आई.आर. (सी-II)

एल-22012/233/1996-आई.आर. (सी-II)

एल-22012/224/1996-आई.आर. (सी-II)

एल-22012/228/1996-आई.आर. (सी-II)

एल-22012/225/1996-आई.आर. (सी-II)

एल-22012/287/1996-आई.आर. (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th November, 2006

S.O. 4622.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 156/97, 85/97, 147/97, 86/97, 90/97, 150/97, 103/97, 146/97, 121/97, and 141/97) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 7-11-2006.

[No. L-22012/240/1996-IR (C-II)]

No. L-22012/243/1996-IR (C-II)

No. L-22012/226/1996-IR (C-II)

No. L-22012/229/1996-IR (C-II)

No. L-22012/220/1996-IR (C-II)

No. L-22012/233/1996-IR (C-II)

No. L-22012/224/1996-IR (C-II)

No. L-22012/228/1996-IR (C-II)

No. L-22012/225/1996-IR (C-II)

No. L-22012/287/1996-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SRI SURESH CHANDRA, PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR, U.P.**

Industrial Dispute No. 141 of 1997

In the matter of dispute between :

Sri Sulindra son of Sri Jogi Mahto
Village Salempur,
Post Maholi,
District Aligarh,

AND

District Manager
Bhartiya Khadya Nigam,
19/150, Awas Vikas Colony,
Agra Road,
Aligarh, U.P.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide notification No. L-22012/240/96-IR (C-II) dated nil has referred the following dispute for adjudication to this tribunal :—

“Whether the claim of Sh Sulindra to have worked in Food Supply Depot, Mathura of Food Corporation of India, Aligarh is legal and justified? Whether he has been denied of legitimate claim provided in settlement signed between the management and Food Corporation of India workers Union, New Delhi, for introduction of Mate System in FSD, Mathura? If so he is entitled to what relief?”

2. The case in short as set up by the worker Sri Sulindra in his statement of claim is that he had been working as a loader under the opposite party establishment since 1987 and in this way the worker had completed more than 240 days of continuous service. It is further alleged by the worker that prior to termination of his services during the period 1987 to 1993 he had completed more than 2000 days of continuous services. The opposite party has terminated the services of the workman w.e.f. 1993. The opposite party had neither paid any notice pay, notice or retrenchment compensation at the time of terminating his services. The opposite party after the termination of the services of the worker had inducted several fresh hands in

the services of the opposite party the names of such persons have been mentioned in para 6 of the claim statement. It has also been pleaded by the worker that he made repeated representations for his employment before the opposite party but they were kept unreplied. The worker has also pleaded breach of the provisions of section 25 H of Industrial Disputes Act, 1947. Worker has also pleaded that he worked under the direct control and supervision of the opposite party. Worker has further pleaded that the opposite party in an arbitrary manner and on account of animosity had terminated the services of the worker which also attracts the provisions of section 2 (ra) of I.D. Act, 1947. It has also been pleaded that the worker was working on the work which was of permanent nature and the same work is still continuing under the opposite party and that work is still being taken by the opposite party from fresh hands which is against the principles of natural justice. On the basis of above pleadings it has been prayed by the worker that the termination of his services be declared illegal and unjustified and he be ordered to be reinstated in the services of the opposite party with full back wages and with all consequential benefits.

3. The opposite party has contested the claim of the worker and filed its written statement *inter alia* alleging therein that the worker was never appointed by the opposite party as alleged by the worker. It has also been denied that the worker had ever worked at the post of Loader under the opposite party. Worker has not specified the date of appointment and the place where he was working and the pay which he was drawing from the opposite party. Opposite party has also denied continuous working of the worker and it has also been denied by the opposite party that the worker had ever worked for more than 2000 days during the period 1987 to 1993. It is also alleged that the opposite party has neither appointed the worker at any point of time nor had terminated the services of the worker. Opposite party has further pleaded that when the worker was never appointed by them question of considering his representations as alleged does not arise. Regarding the appointment of other workers it has been pleaded by the opposite party that the management has every right to engage any person at any point of time keeping in view the rules and regulations and without prejudicing or violation of rights of any other workers with the opposite party. It has also been denied by the opposite party that they ever violated any of the provisions of Industrial Disputes Act, 1947. It is false to alleged that the opposite party acted in an arbitrary manner and against rules of natural justice. The demand of the claimant is illegal and without any authority. It has also been denied by the opposite party that the worker had ever performed the work of permanent nature. There was no system at Mathura in the establishment of the opposite party to engage directly any person during the period 1987 to 1993. Since the worker was never in the employment of the opposite party question of issuing notice, notice pay or payment of retrenchment compensation in the facts and circumstances

of the case does not arise at all. Any representation of the worker was uncalled for and the worker was not entitled for any compensation. Opposite party has also denied the relationship of Master and Servant between the opposite party and the so called worker. Since the worker had never been appointed by the opposite party the opposite party had no hand in action taken by the employer of the worker. Worker is not entitled to any benefits of permanent employment or any other facilities as claimed.

4. By way of additional plea it has been pleaded by the opposite party that the Senior Regional Manager has been shown to have terminated the services of the worker but Senior Regional Manager has not been made a party to the dispute.

5. It has also been pleaded by the opposite party that District Manager, FCI, Aligarh, has not been impleaded as party in the statement of claim, therefore, the claim of the worker is bad for non-joinder of necessary party and the claim of the worker is liable to be rejected on this ground. In the end it has been pleaded that the claim of the worker be rejected being devoid of any merit.

6. Worker has also filed rejoinder in which nothing new has been pleaded except reiteration of the facts already alleged by him in his statement of claim.

7. Contesting parties beside adducing documentary evidence have also adduced oral evidence in support of the respective claims and counter claims.

8. I have heard arguments of the parties at length and have carefully gone through the records.

9. It is to be noted that the statement of claim of the worker is not in conformity with the terms of reference order and the same is entirely different whereas reference order is to the effect that whether the claim of the worker to have worked in Food Supply Depot Mathura of Food Corporation of India, Aligarh is legal and justified and whether he has been denied of legitimate claim provided in settlement signed between the management and Food Corporation of India Workers' Union, New Delhi for introduction of mate system in FSD, Mathura. If so he is entitled to what relief? But in the claim-statement worker has claimed his reinstatement with full back wages and all consequential benefits on the ground of breach of the provisions of Industrial Disputes Act, 1947, which is not at all correct. It is settled position of law in Industrial Jurisprudence that a Labour Court/Industrial Tribunal and/or National Tribunal cannot travel beyond the terms of reference order. The reference order do not reflects the termination of the services of the worker therefore the worker cannot be granted the relief of reinstatement in the instant case. Moreover as already pointed out that the statement of claim of the worker is not in consonance with the terms of reference order, the tribunal do not consider it expedient to examine the points raised by the worker regarding breach of various provisions of the Industrial Disputes Act, 1947.

10. Further a bare perusal of the reference order would go to indicate that no date has been mentioned therein and in case on appreciation of evidence on record the tribunal is of the opinion that the action of the opposite party management is neither legal nor justified question which arises for consideration is as to from what date the worker be given relief by the tribunal. From this point of view the worker cannot be granted any relief as claimed by him as the reference order itself has become redundant.

11. The opposite party has denied any relationship of employer and employee between the management of FCI and Sh. Sulindera. On this point the worker has not adduced any evidence. Heavy burden was on the worker to have adduced evidence before the tribunal to establish the relationship of Employer and Employee between the contesting parties. Since the worker has failed to adduce any evidence on this point, the tribunal feels no hesitation in holding that there exist no relationship of master and servant between the worker and the management of Opposite Party Food Corporation of India.

12. From the order sheet it is quite obvious that Industrial Dispute Case Nos. 156/97, 85/97, 147/97, 86/97, 90/97, 150/97, 103/97, 146/97, 121/97 and 141/97 were consolidated with by order dated 20-7-98 and I.D. Case No. 141 of 1997 was made the leading case. Therefore the findings recorded in Industrial Dispute Case No. 141 of 1997 shall govern all the connected industrial dispute cases, therefore, it is ordered that a copy of this award be placed on the record of each connected industrial dispute cases.

13. In view of discussions made above, it is held that there exists no relationship of Master and Servant between the Management of Food Corporation of India and workers of each connected Industrial Dispute Cases. Having held that no relationship exists between the contesting parties' workers of each connected cases cannot be granted any relief whatsoever.

14. Accordingly reference is answered against the workers and in favour of the management opposite party.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.अ. 4623.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ नं.-2 के पंचाट (संदर्भ संख्या 1106/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/176/2002-आईआर(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4623.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1106/2005) of the Central Government Industrial Tribunal-cum-

Labour Court, Chandigarh No. II, as shown in the Annexure in the industrial dispute between the management of UCO Bank, and their workmen, received by the Central Government on 08-11-2006.

[No. L-12011/176/2002-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 1106/2005.

Registered on 21-09-2005

Date of Decision 20-09-2006.

The State Secretary UCO Bank Employees Association.
Haryana State Committee C/o. UCO Bank, Extension
Counter Saini Sr. Sec. School, Rohtak.

.....Petitioner

Versus

The Zonal Manager, UCO Bank, Zonal Office,
Sector-17-B, Chandigarh.

.....Respondent

APPEARANCE

For the Workman : NEMO

For the Management Mr. N.K. Zakhmi, Advocate.

AWARD

The workman is not present. Management appears through Counsel.

It has been noticed that the workman has not appeared in this case on any date fixed. Even he filed the Claim Statement through Shri A.N. Verma, who also stopped appearing in the case long ago. The Management filed written statement on 19th April, 2006, and thereafter, the case was fixed for the appearance of the workman. On the last date, fixed for 21st July, 2006, none of the parties appeared and the workman has not appeared even today. Since the workman appeared through his representative on 20th Feb., 2006 and the next date was fixed in the presence of his representative, therefore, it is presumed that he had the notice of the case being fixed for 19th April, 2006 but he choose not to appear on that day. As stated earlier he did not appear on 21st July, 2006, the date next fixed to await upon the workman but neither on that day nor today the workman has appeared.

On record, I find only the Claim Petition of the workman, the averments of which have been totally denied by the Management. The workman neither collected the copy of the Written Statement nor has filed the rejoinder or affidavit in support of his claim. He has also not produced any evidence much less in his own statement in support of

his claim. I, therefore, do not find any evidence on record to show that the action of the Management in transferring the workman from Chhara Branch to Sirsa Branch within a period of three weeks was without any just and bonafide reason and the said action of the Management was an unfair labour practice, in terms of Clause 7 Schedule 5th of the Industrial Disputes Act 1947. The workman is, therefore, not entitled to any relief. His claim is rejected. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4624.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ नं.-2 के पंचाट (संदर्भ संख्या 882/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/236/2000-आईआर. (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4624.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 882/2005) of the Central Govt. Indus. Tribunal-cum-Labour Court, Chandigarh No. II as shown in the Annexure in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 08-11-2006.

[No. L-12011/236/2000-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 882/2005.

Registered on 12-09-2005

Date of Decision 19-09-2006.

President, Punjab National Bank workers union (NZ)
Mohalla Gobindgarh, Jalandhar

.....Petitioner

Versus

Punjab National Bank Through Regional Manager,
PNB, Regional Office, Mera Sadhbhawana Chowk,
G.T. Road, Karnal

.....Respondent

APPEARANCE

For the Workman : Mr. D.P. Tank
AR

For the Management Mr. Vishal Aggarwal
AR

AWARD

The parties are not present. The record of the file shows that they have not appeared since February, 2006. It was in these circumstances that notice under R/C was issued to the workman under Postal Receipt No. 2124 dated 3rd May, 2006, directing him to appear on 28th July, 2006. The workman did not appear on the date fixed nor the R/C carrying the notice was received back unserved till that date. There came a request for adjournment on behalf of one Manoj Sood without showing as to for whom he was to appear. His authority letter was not on record. Despite that the parties were waited upon on 15th and then on 18th September, 2006, but nobody has appeared on these dates. The Tribunal is satisfied that the workman is not interested to prosecute his case.

On record I find the Claim Petition and the rejoinder of the workman filed through the President of his Union and the affidavit of the representative of the workman. There is also reply of the Management in the shape of affidavit of their Manager, Monish Kumar but the parties have not come forward to admit or deny the averments made in their pleadings. Therefore, the pleadings of the parties cannot be used to reply the reference as the Management has denied the claim made by the workman.

On record I do not find any evidence to show that the Regional Manager, Punjab National Bank, Kamal, had reduced the wages of Sukhbir Singh, Sweeper and employee of erstwhile New Bank of India, from one third scale of wages to Rs. 440 w.e.f. 3rd Sep., 1993 and the said order of the Regional Manager was bad in law. Thus I am of the opinion that the workman has failed to prove his claim. Therefore, his claim is rejected. The award is passed against him holding that the workman is not entitled to any relief. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ. 4625.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ नं.-2 के पंचाट (संदर्भ संख्या 1077/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/107/2000-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4625.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 1077/2005) of the Central Govt. Indus. Tribunal-cum-Labour Court, Chandigarh No. II, as shown in the Annexure in the industrial dispute between the management of Bank of Baroda, and their workmen, received by the Central Government on 08-11-2006.

[No. L-12011/107/2000-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 1077/2005.

Registered on 20-09-2005

Date of Decision 27-09-2006.

The General Secretary, All India Ex-Servicemen Bank
Employees Federation C/o Bank of Baroda,
Gandhinagar, Jammu.

.....Petitioner

Versus

The Regional Manager, Bank of Baroda, Post Box No. 68
1st Floor, Bank of Baroda Building, Bank Square,
Sector-17-B, Chandigarh.

.....Respondent

APPEARANCE

For the workman : NEMO

For the Management : Mr. Parmod Kumar Jain
Advocate.

AWARD

The workman is not present. He has not appeared in this case on any date before this Tribunal. Numerous notices were issued to him but without any response. Finally he was served in person and despite that he is not present. This shows that he has lost interest in this case.

On record I find the Claim Petition filed by him and the reply of the Management. There is affidavit of the workman by which he has certified to be true the contents his claim petition. However, he has not appeared in the case to stand to the cross examination of the Management. The Management has denied the claim of the workman *in toto* and it is their case that the workman was involved in a fraud case in which Rs. 17,000/- of the Management were involved. After departmental inquiry the workman was found to be guilty and was punished with stoppage of his two increments. According to them the claim made by the workman is wrong and not maintainable.

The parties have also placed on record the documents and photo-copies of same documents but they have not proved the same in accordance with law. Thus I do not find any evidence much less the cogent evidence to find out whether or not the action of the Management of Bank of Baroda, represented by Regional Manager,

Chandigarh, in imposing the punishment of the holding of two increments with accumulative effect on the workman vide his order dated 21st August, 1999 and treating the period of suspension not on duty, was justified and legal. Since it is the workman who has failed to support his claim, as made out by him in the statement of claim, therefore, it is he who is the loser. In the circumstances the workman is not entitled to any relief.

Thus the reference made by the Govt. of India vide their No. L-12011/107/2000 dated 12th Oct., 2000 is answered in the terms that the workman has failed to prove that the order of the Management in withholding his two increments with accumulative effect and treating the period of his suspension not on duty, vide their order dated 21st August, 1999, was not justified and legal. He is, therefore, entitled to no relief. The award is passed against him. Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4626.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ नं.-2 के पंचाट (संदर्भ संख्या 240/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/32/2005-आईआर. (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4626.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 240/2K5) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chandigarh No. II as shown in the Annexure in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 8-11-2006.

[No. L-12011/32/2005-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 240/2k5

Registered on 5-8-2005

Date of Decision 12-10-2006

The president, All-India Central Bank of India
Employees Congress, 129, Lalkurti,
Ambala (Haryana)

Petitioner

Versus

The Zonal Manager, Central Bank of India,
Zonal Office, Bank Square,
Sector-17-B, Chandigarh

Respondent

APPEARANCE

For the workman : Nemo

For the Management : Mr. N. K. Zakhmi,
Advocate.

AWARD

The workmen continue to be absent. After waiting long for them it was directed on 31st July, 2006 that a notice under R/C be issued to the workers through their President through whom they had approached the appropriate authorities and succeeded in getting the matter referred vide order No. L-12011/32/2005-IR(B-II) dated 5th July, 2005 for adjudication to this Tribunal. The notice to the workman was issued on 31st July, 2006 and was conveyed under Postal Receipt No. 947. They were directed to appear in the case today. But neither the workmen nor their President is present and Management is present through Counsel. Since the workmen neither filed their Statement of Claim nor they have produced any evidence to show that the Management had not acted legally by promoting sub staff in accordance with PPA dated 29th May, 2000. The workmen have thus failed to produce any evidence in support of their claim, therefore, they are not entitled to any relief. The reference is answered in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4627.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 132/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/183/2003-आईआर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4627.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 132/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No.2, New Delhi as shown in the Annexure in the industrial

dispute between the management of Central Public Works Department, and their workmen, received by the Central Government on 8-11-2006.

[No. L-42012/183/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

Presiding Officer : R.N. RAI I.D. No. 132/2004

In the matter of :—

The President,
All India CPWD Karamchari Union,
Plot No. 1, Aram Bagh, Paharganj,
New Delhi-110055

Versus

The Executive Engineer,
CPWD,
"C" Division, I. P. Bhawan,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/183/2003-IR (CM-II) Central Government Dt. 29-7-2004 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the management in not providing the benefits of "Assured Career Progression Scheme" to the workmen namely S/Shri Suresh Kumar, Carpenter, Babu Lal, Mason, Pooran Chand, Painter, Jagdish Chand, Fitter Pooran Singh, Beldar, Ghan Shyam, Beldar working in "C" Division of CPWD, New Delhi is legal and justified? If not, to what relief these workmen are entitled to and from which date."

The matter was taken up in Lok Adalat. The parties were directed to negotiate the matter. The matter was settled between the management and the workmen. An amount of Rs. 20,393 has been paid to the workmen Shri Pooran Singh and the same amount to Shri Ghanshyam. Only these two workman have filed rejoinder.

The matter stands amicably settled.

The reference is replied thus :

The action of the management in not providing the benefits of "Assured Career Progression Scheme" to the workmen namely S/Shri Suresh Kumar, Carpenter, Babu Lal, Mason, Pooran Chand, Painter, Jagdish Chand, Fitter, Pooran Singh, Beldar, Ghan Shyam, Beldar working in "C" Division of CPWD, New Delhi is legal and justified. The workmen applicants are not entitled to get any relief as prayed for.

Award is given accordingly.

Date: 30-10-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ. 4628 — औद्योगिक विवाद अधिनियम, 1947

(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ई. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, असनसोल के पंचाट (संदर्भ संख्या 33/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-22012/268/2003-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4628.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute between the management of Chora O.C.P. Kenda Area, M/s Eastern Coalfield Ltd., and their workmen, received by the Central Government on 08-11-2006.

[No. L-22012/268/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ASANSOL

Present : Sri Md. Sarfaraz Khan, Presiding Officer

Reference No. 33 of 2004

Parties : The Agent, Chora O.C.P. of ECL, Bahulai, Burdwan.

Vrs.

General Secretary, Koyala Mazdoor
Congress, Asansol

Representatives:

For the management : None

For the union (Workman) : Sri Rakesh Kumar, General
Secretary, Koyala Mazdoor
Congress.

INDUSTRY : Coal STATE : West Bengal

Dated, the 23-06-2006.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/268/2003-IR (CM-II) dated 23-06-2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Chora O.C.P. under Kenda Area of ECL in accepting the higher side of the assessed age-slab of Sh. U. Pradhan, E.P. Helper is legal and justified? If not, to what relief the workman are entitled?"

After having received the Order No. L-20012/268/2003-IR (CM-II) dated 23-06-2004 of the afore said reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference Case No. 33 of 2004 was registered on 05-07-2004 and an order was passed to issue notices to the respective parties through the registered post directing them to appear in the court and file their written statement along with the documents and a list of witnesses in support of their case on the date fixed. Accordingly the notices through the registered post were issued to the respective parties. Shri Rakesh Kumar, General Secretary of the Union concerned appeared and filed a written statement on behalf of the workman concerned.

The case was fixed for appearance of the Management. It appears from the record that the notices were served upon the management on 18-9-2004 and to that effect an endorsement for the receipt of the same has been made on the acknowledgement letters as well. From perused of the order sheets of the record it transpires that the Union left taking any step on behalf of the workman w.e.f. 10-2-2006. It is further clear from the record that Sri Rakesh Kumar, General Secretary of the Union representing the workman concerned had submitted that he had got no instruction from the side of the workman and he made an endorsement in the margin of the order sheet of the record that he is not interested to pursue this record. As such in such circumstances it is not advisable to keep the record pending any more. According it is hereby.

ORDERED

That let a "No Dispute Award" be and the same is passed. Send the copies of the award to the Govt. of India Ministry of Labour, for information and needful. The reference is accordingly disposed off.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ 4629.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 71/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-22012/104/1995-आई.आर. (सी.एम.-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4629.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute between the management of ECL and their workman, which was received by the Central Government on 08-11-2006.

[No. L-22012/104/1995-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Md. Sarfaraz Khan, Presiding Officer

Reference No. 71 of 1995.

Parties : The, Aagent Shankarpur Colliery of E.C.L., Ukhra,
Burdwan

Vrs.

The working President, Colliery Mazdoor
Union, Ukhra, Burdwan.

Representatives :

For the management : Sri P.K. Das, Advocate

For the Union (Workman) : Sri M. Mukherjee, Advocate

INDUSTRY : Coal STATE : West Bengal

Dated, the 27-07-2006

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/104/1995-IR (C-II) dated 24-11-1995 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the refusal of the management in providing employment on compassionate ground to Sh. Moti Chamar son of Sh. Boudh Chamar Ex-general Mazdoor by the Agent, Shankarpur Colliery PO : Ukhra, Dist.: Burdwan (W.B.) is justified or not? If not, what relief he is entitled to?"

2: On having received the Order No. L-22012/104/95-IR (C-II) dated 24-11-1995 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 71 of 1995 was registered on 06-12-1995 and an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and to file their statements of claim along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices were issued to the parties concerned. Shri P.K. Das, Advocate appeared in the court on behalf of the management along with a letter of authority duly authorized by the competent authority of the colliery. Likewise Sri M. Mukherjee, Advocate also appeared on behalf of the union together with a letter of authority. Both the representatives of the parties filed their written statements along with their relevant documents in support of their claims.

The case of the union in brief compass as set forth in its written statement is that Sh. Boudh Chamar was a permanent employee as a General Mazdoor in Shankarpur Colliery of M/s. Eastern Coalfields Limited.

4. The main case of the delinquent employee is that on the last part of his service carrier he was facing much trouble in performing his duty on account of his poor health and various diseases. Consequently he approached the management for voluntary retirement on medical ground under the provision of voluntary retirement scheme under clause 9:4:3 of NCWA IV and his application was duly considered and was declared medically unfit by the Medical Board and thereafter on 16-6-91 his service was terminated on medical ground w.e.f. 20-6-91 vide letter No. SKP/PXL/6/91/653 dated 18-6-91.

5. The further case of the union is that through the above said letter the delinquent workman was advised to submit necessary papers relating to employment of his dependant as early as possible. Accordingly an application was submitted together with other documents for employment of dependant son Modi Chamar who was duly examined the Medical Board and found fit to get employment. But unfortunately the management did not provide employment to Modi Chamar, dependant son of the ex-workman concerned due to which Boudh Chamar is facing starvation.

6. It is further pleaded that as per provision of clause 9:4:3 of NCWA IV, the son comes under his purview of the said provision and he is entitled to get employment in place of his father, Boudh Chamar. The act of non-providing of the job to the dependant by the management is claimed to be illegal, unjustified, harassing and against the principle of natural justice. A relief has been sought to direct the management to give employment to the dependant son of Boudh Chamar with retrospective effect from the date of termination of his service on the medical ground along with the back wages and all the consequential benefits.

7. On the other hand the defence case of the management as per its written statement in short is that the dispute under reference as raised by the union is entirely misconceived and there is no valid ground or reason to raise the Industrial Dispute over the alleged matter as per terms of reference.

8. The main defence of the management is that Shri Boudh Chamar was an employee of Shankarpur Colliery and he was declared medically unfit and was subsequently terminated from service w.e.f. 20-6-91. Boudh Chamar, ex-employee applied for the employment of his dependent son Shri Moti Chamar and accordingly the file was processed from colliery level to higher authority. The higher authority after examining all the papers and documents did not consider the proposal for employment to Sh. Moti Chamar as the same was not covered within the provision of voluntary retirement scheme of clause 9:4:3 of NCWA IV. The claim of the employment of the dependant of the ex-workman concerned is claimed to have been rightly rejected by the competent authority as the guideline laid down under the said schedule was not fulfilled and the employment can not be claimed as a matter of right unless the same is not covered under the specified scheme. The

concerned workman is not entitled to get any benefit of employment for his alleged son nor he is entitled to claim any relief as prayed for and accordingly a no dispute award is prayed to be passed.

9. In view of the facts of the pleading of the parties the following issues are framed for the just and proper decision of the dispute raised in the aforesaid reference.

- (i) Is the dispute under reference maintainable in the eye of law and the same comes under the provision of the Industrial Disputes Act, 1947.
- (ii) Is Sh. Moti Chamar, S/o Sh. Boudh Chamar entitled for employment on compassionate ground being the dependant of the ex-workman Boudh Chamar.
- (iii) Is the claim of the dependant of Sh. Boudh Chamar covered within the provision of voluntary retirement scheme under clause 9:4:3 of NCWA-IV.

Before entering into the discussion of the aforesaid points in issue it is necessary to mention the facts admitted by the parties.

10. It is the admitted case of both the parties that Sri Boudh Chamar was a permanent employee of Shankarpur Colliery of M/s. Eastern Coalfields Limited.

11. It is also the admitted case of the parties that Shri Boudh Chamar was declared medically unfit vide letter No. HA/PD/A-II(28)/1960 dated 10/13-6-91 and he was superannuated or terminated from service w.e.f. 20-6-91.

12. The further admitted case of the parties is that Boudh Chamar, ex-employee of the concerned colliery had applied for the employment of his dependent Sri Moti Chamar and the file of the said proposal of employment was processed from colliery level to higher authority which was rejected by the competent authority.

13. It is the cordinal principle of the evidence act that the facts admitted need not be discussed since all the aforesaid facts are admitted one I do not think proper to discuss the same in details.

14. **ISSUE NO. 1:** The management in para 1 of its written statement has taken the plea that the instant reference is bad in the eye of law as the same is not legally maintainable. It is also claimed that in view of the facts and circumstances of the case the dispute is misconceived one. But the aforesaid issue was neither raised nor pressed by the management during the course of hearing of the reference. The management has neither examined any oral witness nor tendered even a chit of paper in support of its plea. As such I do not find any defect in the maintainability of this reference and the facts of the case very well come under the purview of Industrial Disputes Act, 1947. The Government of India through the Ministry of Labour has rightly referred the dispute to this Tribunal for its adjudication and as such the issue is decided against the management.

15. Issue No. 2 & 3 : Both these issues have been taken together for discussion as they are interlinked to each other and it will be convenient to the court to come to a correct finding. From perusal of the record it transpires that none of the parties has examined any oral witness. They have filed Xerox copies of some documents. The union has filed the Xerox copy of the letter of termination of service on medical ground issued by the Agent, Shankarpur Colliery. Xerox copy of service excerpts of the ex-employee Boudh Chamar. These documents are related to the points admitted by both the parties. So I do not think it proper to discuss in detail. Likewise the management has also filed a letter issued by Dy: CHE/Agent, Shankarpur Colliery in favour of Sri Boudh Chamar, the ex-workman concerned through it has been communicated to him that the employment of his dependent has no merit for being considered under clause 9.4.3 (1) No. Disability. This document is an official letter which is not challenged by the union.

16. Now let us see as to how far the facts and circumstances of the dispute in reference comes under the purview of voluntary retirement scheme of clause 9.4.3 of N.C.W.A. IV.

17. Perused the provision 4.0 of the National Coal Wages Agreement-IV dated 27th July, 1989 where the provision of employment to the dependent is provided. Clause 9.4.1 and 9.4.2 are in respect of employment to one dependent of the worker who is disabled permanently and who dies while in service which is not applicable in this case. Clause 9.4.3 deals with the employment to one dependant of a worker who is presently disabled in his place. Its sub-clause (1) deals with disablement of the worker concerned should arise from injury or disease be of a permanent nature resulting into the loss of employment. It also does not relate to the case of the delinquent workman. Clause 9.4.3(ii) deals with the case of disablement arising out of general physical debility so certified by Coal Company concerned not arising out of injury or disease as in para 1 above, the concerned employee will be eligible for the benefit under the clause if the employee is up to the age of 58 years. The facts and the circumstance of the present dispute in hand comes under this category of the provision of this clause 9.4.3 (ii), NCWA-IV. One is entitled to take the advantage of this provision subjects to the condition that the employee who is declared medically unfit must be up to the age of 58 years. The union has filed Xerox copy of the service excerpts of the ex-employee Boudh Chamar who was declared medically unfit. On perusal of the copy of the important excerpts of the service record of Sh. Boudh Chamar dated 23-11-87, it transpires that his date of birth has been shown in the column as 1931 (Nineteen hundred thirty one) and his service was terminated on medical ground w.e.f. 20-6-91. So it is clear by way of calculation that during the time of the termination of his service on medical ground he was aged about sixty years i.e. more than the cut off age of 58 years fixed for enjoying the benefit of the provision of clause 9.4.3 (ii) of

NCWA-IV. So it is clear from the facts prevailing in the record that the ex-employee Boudh Chamar is not entitled to enjoy the benefit of the provision 9.4.3 (ii) of NCWA-IV.

18. In view of the above facts circumstances, documents filed and the discussions made I am satisfied to hold that the claim for employment of the dependent of the ex-employee Boudh Chamar has rightly been not considered and rejected by the competent authority as the guideline laid down in clause 9.4.3(ii) of the NCWA-IV is not applicable in his case and as such he is not entitled to get any relief as prayed for. These two issues are decided in favour of the management and against the delinquent workman. Accordingly it is hereby.

ORDERED

That let the reference be and the same is dismissed on contest. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ. 4630.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 28/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/14/2002-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4630.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur, (U.P.) as shown in the Annexure in the industrial dispute between the management of Punjab National Bank and their workman, received by the Central Government on 8-11-2006.

[No. L-12011/14/2002-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SARVODAYA
NAGAR, KANPUR, U.P.

Industrial Dispute No. 28 of 2002

In the matter of dispute between

The President,
National Confederation of Bank Employees
C/o Punjab National Bank, Branch Nayaganj,
Kanpur-208001

AND

Punjab National Bank
Regional Manager, Regional Office,
Birhana Road, Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide Notification No. L-12011/14/2002-IR (B. II) dated 30-4-2002 has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Punjab National Bank in imposing the punishment of stoppage of two annual graded increments with cumulative effect w.e.f. 21-10-99 upon Smt. Usha Singh and not accepting her option for family pension on account of death of her husband on 2-1-93 and thereby not releasing the same, is legal and justified? If not, what relief she is entitled to?”

2. A bare persusal of the schedule of reference order is indicative of the fact that it runs into two part and so far as first part is concerned is about justification of the action of the management in imposing punishment of stoppage of two annual graded increment whereas second part relates to denial by the management to accept option for family pension on account of death of her husband and not releasing the same is legal and justified.

3. The case of the worklady on the first part of the reference order is that while working in the bank she was cheated by an unknown person (employee) when the amount of Rs. 19000 deposited by her in her account was altered to Rs. 1000 and the said cheating was caught while balancing the books of the account. Instead of investigating the matter in the right earnest and reporting the same to the police, authorities of the bank harrassed the employee and was persuaded to deposit the amount by giving assurances that real culprit would be caught and money deposited would be refunded. It is the further case of the worklady that instead of making any serious attempt for caught hold of the culprit, a charge sheet dated 14-7-95 was issued to her after about one year and two months from the date of misappropriation by the Branch Manager BO Kaushalpuri Kanpur, who is not Disciplinary Authority and therefore not competent to issue chargesheet. The charges were denied by the employee and without considering the reply an inquiry was constituted against him on the basis of charge sheet issued by an incompetent authority. Enquiry Officer did not conduct the inquiry as per provisions of Bipartite Settlement, rules governing the inquiry and the principles of natural justice. There have been basis irregularities and errors in the course of departmental enquiry. The enquiry officer vide his finding dated 18-6-99 rules out that there is no conclusive proof against her for proving that she altered and manipulated the figure from Rs. 1000 to Rs. 19000 in connivance with Sri Bhagwant Singh. The opposite party instead of accepting the findings of the enquiry officer who had given the same on the basis of management exhibits and deposition of witnesses produced by the management during the enquiry, the disciplinary authority vide his orders dated 22-7-99 decided to differ with the findings of the enquiry without giving any reasonable and justified

reasoning and proposed the punishment of dismissal without notice. It has also been alleged that the disciplinary authority also violated the procedure laid down under rules when he did not supplied the copy of enquiry report to the employee and also did not invite the objection or comments of the employee concern before considering the said report and deciding the quantum of punishment. He has even gone outside the scope of the charge sheet while deciding to differ with the findings of the enquiry officer and materially changed the entire subject matter of the enquiry and the allegations leveled to the detriment and prejudice to the employee concerned. The Disciplinary Authority at the first instance issued a show cause notice to the employee to show cause as to why punishment of dismissal be not inflicted upon her and also required to appear before him personally alongwith his defence representative, without providing copy of inquiry report alongwith show-cause notice. After giving personal hearing the disciplinary authority imposed upon the employee concerned punishment of stoppage of two annual graded increments with cumulative effect instead of Dismissal taking lenient view of the matter. The appeal preferred by the employee concerned was turned down by the appellate authority on the ground of delay as was communicated to her by the Senior Regional Manager (Personnel) vide communication dated 25-4-2000. On the basis of above allegations it has been prayed by the workman that the punishment order be set aside and withheld increments by way of illegal punishment be released in her favour.

4. On the second part of the reference, the case of the employee is that husband of the employee Late R. K. Singh was a permanent employee of the bank who expired on 2-1-93 and the workman got appointment in his place under the Bank's scheme for providing compassionate appointment to the heirs of the deceased employee. It has further been alleged that vide bipartite settlement dated 20-10-93 the workman concerned became entitled for family pension and she duly applied for family pension on 28-9-94 i.e. within the stipulated period and the same was forwarded by branch manager BO Kaushalpuri, Kanpur to Regional Manager vide covering letter dated 28-9-94. Since the authorities of the bank delaying release of the pension on one pretext or the other without giving any specific reply to the employee concerned. It has been alleged by the workman that the matter for release of pension was taken up with the authorities of the bank time and again and the branch sent proposal after proposal in order to satisfy the queries of the authorities of the bank but fact remain the same that she has been deprived of her due benefit of family pension without there being a reasonable cause to decline the same. It has, therefore, been prayed that the pension due to the employee concerned be released by holding the action of the opposite party on second part of the schedule of reference order as illegal and unjustified.

5. The claim of the employee has been contested by the opposite party bank which has filed its written

statement alleging therein that the employee while posted at BO Kaushalpur Kanpur, deposited a sum of Rs. 1000 in her SF A/c No. 18642 on 3-5-94 and later on manipulated and altered the figures in cashier's long book and also made alteration in original deposit voucher and got the figures changed from Rs. 1000 to Rs. 19000 in the ledger sheet and withdrew a sum of Rs. 15000 on 7-6-94 leaving a credit balance of Rs. 4581.16 whereas the actual balance should have been Rs. 13,418.84 and when the entire episode came into light, she deposited Rs. 14000 on 14-6-94. On her such fraudulent activities she was charge sheeted and departmentally enquiry was instituted against her. It has been alleged that the enquiry officer submitted his report and upon consideration of the same the disciplinary authority inflicted the punishment. Appeal was rejected as the same was not preferred within the stipulated period of 45 days as provided under rules. Smt. Singh got the appointment on compassionate ground on w.h. 26-3-93. There was no option for pension available in the records of Pension Fund Department at Head Office, New Delhi and option which was sent to the Head Office contained an alteration in the date as 28-9-94.

It has further been pleaded by the opposite Party that proforma used for submitting the option for family pension which was introduced through circular dated 15-11-95, but the same was submitted by the family of the deceased employee on 28-9-94, i.e., much before the circulation of circular which is not possible. It is also alleged by the opposite party that the then manager Sri R. N. Verma of Branch Office, Ghatampur whose signature is also put on option dated 28-9-94 was not posted there in fact was posted at this branch on 20-10-97 and was not working as incumbent on 28-9-94 where husband died. Thus the question of his signing the said option form on that date i.e., 28-9-94 does not arise. It is the further case of the opposite party that actually option form was signed on 12-5-99 and not on 28-9-94. On the basis of above it has been prayed that the claim set up by the union is devoid of merit and the concerned workman is not entitled to any relief and her claim is liable to be rejected.

6. Union raising the dispute on behalf of the workman has also filed rejoinder in which nothing new has been pleaded except reiteration of the facts already alleged in the statement of claim.

7. Contesting parties after exchange of pleadings adduced documentary as well as oral evidence in support of their respective claims and counter claims. Whereas Union has examined Sri S. C. Chaturvedi W. W. 1, and Sri Tony Pangat as Tribunal's Witness. Management has examined any witness orally before this tribunal in support of its case. Both the above witnesses are on the second part of the reference order.

8. Detailed arguments were heard and the records have carefully been examined by the tribunal.

9. It is to be pointed out that the union has not examined any witness in support of its claim so far it relates

award of punishment of stoppage of two increments with cumulative effect w. e. f. 21-10-99 i. e. first part of reference order. Heavy burden was on the union to establish that the punishment awarded to the concerned workman was neither legal nor justified but since the workman failed to discharge her obligation in this regard the tribunal feels no hesitation in holding that the action of the management in imposing punishment of stoppage of two annual increments w. e. f. 21-10-99 is legal and justified. Accordingly the first part of the reference order is answered in affirmative and against the workman concerned.

10. Now it will be seen if the action of the opposite party bank in not accepting the option form for family pension on account death of her husband is justified. On this point the management has not examined any witness whereas workman had examined Sri S. C. Chaturvedi as W. W. 1, and Sri Tony Pangat was examined as witness of the tribunal who allegedly has signed the option form while submitting the same to the Regional Office of the bank. It has not been denied by the opposite party bank that it has not received the family pension option form from the workman. Tribunal witness Sri Tony Pangat in his evidence on oath before the tribunal has admitted the fact that the letter dated 18-9-94 is addressed to Regional Manager of the opposite party and relates to family pension of deceased Sri R. K. Singh. Witness has proved the said letter which is on record and has also admitted that the letter bears his signature. Witness has also admitted that the letter's copy was also addressed to the workman 11. W. W. 1 in his statement on oath before the tribunal has admitted that on 28-9-94 he was posted at bank's Kaushalpur branch as Special assistant. On the same day a letter was addressed to the regional manager of the bank which is in his hand writing. The letter bears the signatures of the then manager. Sri Tony Pangat witness has also admitted that the endorsement indicating that a copy be given to the workman is also written in his hand writing.

11. There has been no cross-examination of the above witnesses by the opposite party Punjab National Bank. Therefore the evidence of the above witnesses goes unrebutted and the tribunal under these circumstances has no option but to believe the evidence lead by witnesses. Accordingly tribunal is of the opinion that the union has succeeded in establishing its case on the second part of the reference order.

12. Therefore it is held that the action of the opposite party bank in not accepting the option of the concerned workman for family pension on account of death of her husband on 2-1-93 and thereby not releasing the same is neither legal nor justified. As a result of which it is held that the workman is entitled for family pension on account of death of her husband. Accordingly opposite party management of Punjab National Bank is directed to release hence forth the family pension of the concerned workman on account of death of her husband on 2-1-93 and pay the entire amount as arrears on this count within a period of 30 days from the date of publication of the award failing which

workman be further entitled interest at the rate of 12% per annum on the said amount till the same is paid finally.

13. Reference is therefore answered accordingly and is allowed partly in favour of the workman and against the opposite party bank in the manner as indicated above.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ 4631.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ नं.-II के पंचाट (संदर्भ संख्या 1255/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/136/2005-आईआर.(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4631.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1255/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh No. II as shown in the Annexure in the industrial dispute between the management of Central Bank of India and their workman, received by the Central Government on 08-11-2006.

[No. L-12011/136/2005-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case I.D. No. 1255/2006.

Registered on 16-2-2006

Date of Decision : 12-10-2006.

The President,

Central Bank of India Employees Union,

Haryana, 129, Lal Kurti,

Ambala Cantt. (Haryana)

Petitioner

Versus

The Regional Manager,

Central Bank of India,

1 Queen's Road, Amritsar (Punjab)

Respondent

APPEARANCE

For the Workman : NEMO

For the Management : Mr. N.K. Zakhmi, Advocate

AWARD

The workman continues to be absent. After waiting long for him it was directed on 31st July, 2006 that a notice

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under R/C be issued to the worker through his President through whom he had approached the appropriate authorities and succeeded in getting the matter referred vide order No. L-12011/136/2005-IR (B-II) dated 5th January, 2006 to this Tribunal. The notice to the workman was issued on 31st July, 2006 and was conveyed under Postal Receipt No. 947. He was directed to appear in the case today. But neither the workman nor his President is present and the Management is present through Counsel.

Since the workman has neither filed his Statement of Claim nor has produced any evidence, before this Tribunal, to show that the action of the Management in not allowing the pension scheme option to Shri Rakesh Kumar, Daffatri, posted in the Jammu Branch of the Management Bank was not justified. Since the workman has failed to produce any evidence in support of his claim, therefore, he is not entitled to any relief. The reference is answered in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ 4632.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ नं. 2 के पंचाट (संदर्भ संख्या 786/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/125/2003-आईआर.(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4632.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 786/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh No. II as shown in the Annexure in the industrial dispute between the management of Central Bank of India and their workman, received by the Central Government on 08-11-2006.

[No. L-12012/125/2003-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL, TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D.No 786/2006.

Registered on 6-09-2005

Date of Decision 02-09-2006.

Shri Yash Pal Singh S/o. Shri Amin Chand, 1068-B,
Jagdish Colony, Old Rajpura, Patiala

...Petitioner

Versus

Regional Manager, Central Bank of India, 106, Railway
Road, Ambala Cantt.

...Respondent

APPEARANCE

For the Workman : Mr. Jadeep Bains,
Advocate
For the Management : Mr. P.K Datt,
Advocate

AWARD

Counsel for the parties present. The matter for this Tribunal at this stage is to find out whether the Management before terminating the services of the workman conducted a fair and proper inquiry and the discharge of the workman is, therefore, proper and legal. The occasion for the consideration of this aspect had arisen on a reference made by the Govt. of India vide their No. L-12012/125/2003-IR(B-II)) dated 16th Sep., 2003, the appropriate govt. has desired to know as under :—

“Whether the action of the Management of Central Bank of India Ambala Cantt. in awarding the punishment of discharge from service to Shri Yash Pal Singh, Ex-Clerk w.e.f 25-09-2001 is legal and justified? If not, what relief the workman is entitled to and from which date?”

On getting the reference the parties were summoned. The workman filed statement of claim to which the Management filed written statement in the shape of affidavit of Shri S.K Madan, their Regional Manager. They also placed on record the photo copies of documents which they claimed to be the copies of the inquiry proceedings held against the workman. The workman filed replication and also his affidavit. The parties have also submitted written arguments.

The claim of the workman is that he was working as a permanent employee of the Management posted at Panchkula when on 7th Feb., 2001, the Regional Manager of the Management Bank served a charge sheet on him for his remaining absent from duty unauthorizedly and also for indulging in indebtedness; that the workman was sick and submitted his leave application to the Management; that the Management brought a voluntarily retirement scheme (VRS-2001). The higher authorities of the Bank allured the workman, therefore, he opted for it. However the Management had something else in mind and served upon him the charge sheet for remaining absent from duty for different periods in the years 1996, 1997, 1998 and from 21st Feb., 2002 to 6th March, 2002, whereas the workman was submitting his medical certificates to the Bank. The workman was also charge sheeted for raising loans from Govt. Societies and Banks without seeking the permission;

that the Management conducted the departmental inquiry merely as eye wash, which was concluded on the same very day i.e 12th March, 2001; that as per the service rules the workman was entitled of sick leave for 540 days besides 360 days extra leave, 30 days earned leave every year and 12 Casual Leaves. The allegation of the workman remaining absent from duty in the year 1996, 1997 and 1998 was a stale allegation and no action could be taken thereupon in the year 2001; that the Management did not follow the principles of natural justice as they did not adjourn the proceedings of the inquiry although the workman was of depression and he made a request for postponing the inquiry; that the inquiry officer as well as the defence representative acted as the stoog of the Management and did not perform their duties properly.

It is further the case of the workman that the disciplinary authority without applying his mind to the inquiry proceedings accepted the findings of the inquiry officer, awarded the punishment of discharging him from the service of the Bank and also lowering him down by two stages. He was also given the minor penalty of censure; that the appellate authority also mechanically upheld the punishment awarded to the workman; that the enquiry held against the workman is bad in law since he was not provided with reasonable opportunity to defend himself, the principles of natural justice were not followed; and that the action against the workman was taken after the lap of five years and that to without taking into consideration the mental health of the workman; that the punishment awarded to the workman was shockingly disproportionate to the misconduct alleged against him the workman. He has prayed for declaring the action of the Management illegal and invalid unsustainable in law and the workman be restored to his position, on which, he was at the time of his discharge from service. He has also prayed for other consequential benefits found due to him.

The Management filed the Written Statement, to the claim of the workman, in the shape of affidavit of their Regional Manager, who has been made a party respondent in the case. It is stated by the Management that the workman was charge sheeted for remaining on unauthorized leave and indulging in indebtedness; that the workman did not advance his explanation rather he did not relied to the memos issued to him from time to time through different branches of the Bank. It was in these circumstances that the departmental inquiry was initiated against him for having remained absent from duty for the period 21st Feb., 2000 to 12th March, 2000. Admitting that the workman had sent an application, but the same was not supported by a medical certificate despite the asking by the Bank and the workman again absented from duty w.e.f 13th March, 2000 till 7th Feb., 2001. Admitting that as per the medical certificate issued by the C.M.O Panchkula, the workman was advised rest for two days from 7th Feb., 2001 and for four days from 19th Feb., 2001 it stated by the Management that the workman did not get his leave sanctioned as was the requirement of rules.

The Management denied that he was allured by the authorities of the Bank to opt for VRS with the assurance that he will be absolved of the unauthorized absence from duty. Claiming that the workman was not even eligible for VRS since he was facing the inquiry when the scheme came into existence and as per the scheme also, those who were facing the inquiries or against whom the inquiries were anticipated, could not opt for the scheme, besides others; that as per the record the workman remained absent from duty for 315 days in 2000, 118 days in 2001 including continuous absence from 1st Jan., 2001 to 7th Feb., 2001, besides he was absent from duty for 80 days in the year 2001 upto 8th Oct., 2001 and in all, he remained absent from duty for 898 days from the year 1996 to 2001, which exhibited his interest in serving the Management.

The second charge against the workman was of his engagement in business activities without the permission of the Management and his raising loans for his business from different firms and societies. He was issued notices by the lawyers of the firms and was also proceeded against in the Court of law since the cheque he issued were dishonoured. Denying the claim of the workman that he was not provided with sufficient opportunity to defend himself and that no proper inquiry was conducted against him it is stated by the Management that the fact was that he was given opportunity to defend him. He nominated Shri B. S. Gill as representative.

It is further submitted by the Management that the leave which the workman claims to be is available to him could be available to those who attend their duties regularly and whose work was above board. Challenging the claim of the workman that the inquiry finding were arbitrary, illegal and without any basis, it is stated by the Management that the workman, as per his own words, had received the findings of the inquiry officer; that the workman had admitted the charges without raising any objections or even asking for the change of his defence representative. The inquiry officer, then had no option what to conclude the inquiry although the Presenting Officer wanted to support the allegations with documentary proof. The Inquiry Officer, on the objections of the representative of the workman, did not allow him to do so; that the admission of the workman was voluntary and no influence, coercion or allurement was exercised upon him. The Disciplinary Authority examined all aspects of the inquiry proceedings and even allowed the workman to appear in person on 30th August, 2001 at 3.00 P.M. The workman appeared along with the defence representative and presented his case. It was only after the due consideration of the submissions made by the workman, the inquiry report, that the disciplinary authority passed the order of punishment. Denying the contents of other paras of Claim Petition, it is stated by the Management that the punishment awarded to the workman was as per the service condition. The Management then prayed for permission to produce evidence to justify the punishment awarded to the workman in case.

The workman filed replication by which he reiterated the facts stated in the Claim Petition. It is claimed by him that if the leave of the workman was not sanctioned the Management should have informed him. It is further claimed by him that he was eligible for VRS; that the Management has not calculated the period of his absence correctly; and that the Management could not initiate the Disciplinary proceedings for his absence during the years 1997, 1998, as according to rules the action could be taken immediately and put upto three days of lapse in attending the office. According to him, to raise loans from cooperative societies or from creditors was not misconduct. Claiming that the inquiry officer did not postpone the inquiry proceedings even in the face of mental condition of the workman and completed the inquiry within an hour. Denying the contents of other paras of the statement, it is stated by the workman that the claim made by the Management is wrong. The workman, by his affidavit, reiterated the facts stated in the Claim Petition and the rejoinder.

I have gone through the file and have also considered the arguments submitted by the parties in writing.

There is no dispute that, before awarding the punishment to the workman, the Management had conducted a domestic inquiry in which three charges were framed against the workman and which were found proved against him and the workman was awarded punishment for the same. The workman has claimed that the inquiry conducted was not fair and proper and that the workman was not given full opportunity to defend himself; that the inquiry officer relied upon the evidence to reach the conclusions which was not there; that the workman was allured and influenced by the Inquiry Officer and, therefore, he submitted to his designs and admitted the charge framed against him. It is these grievances of the workman which the Tribunal has to keep in mind while examining whether the domestic inquiry conducted against the workman was fair and proper or not.

Domestic Enquiry in Industrial law has acquitted great significance and Industrial adjudication attaches considerable importance to such an inquiry. The Supreme Court has repeatedly held that a domestic inquiry is not an empty formality but an essential condition to the legality of the disciplinary order. In other words before the workman can be dismissed for misconduct, the employer should hold a fair and regular inquiry into the misconduct and dismissal without holding a regular inquiry would be an illegality. The Disciplinary inquiry has to be quasi-judicial held according to principles of natural justice. The inquiry officer is duty bound to act judicially because the charges of misconduct if proved, will result not only in the deprivation of livelihood of the workman, but will also attach a stigma to his character. Industrial adjudication, therefore, insists upon a proper inquiry being held and that nothing should happen in the enquiry either when it is held or after it is concluded and before the order of dismissal is passed which would expose the inquiry to the criticism that it was undertaken as an empty formality. With this principle in

mind, the grievances raised by the workman it has to be seen whether the inquiry conducted in this case was fair and proper or not.

Before proceedings to find out the fairness of the inquiry, it has to be kept in mind that the jurisdiction of the Tribunal to interfere with disciplinary matters and the punishment award could not be equated with the appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or the competent authority, where they are not arbitrary and utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority under rules. If there has been inquiry consistent with the rules and in accordance with the principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority.

It is a fact that neither the Industrial Dispute Act nor the rules there-under prescribe any procedure to be followed by employers in Domestic Inquiries for investigating the misconduct of delinquent Industrial employees. An inquiry officer has limited powers like regular Court where Court can administer oath to the witnesses, their presence can be compelled and where Counsel can represent the parties, because domestic inquiry is not governed by strict rules of evidence, therefore, by judging the evidence led before such domestic inquiry, it is not open to apply strict standards. It is however, well settled law that the domestic inquiries do not stand on the same pedestal with the trials of actions or cases in a Court. They are not governed by technical rules or procedural law. In the absence of any statutory provisions relating to procedure the domestic inquiries held by the employer in dealing with the cases of misconduct alleged against their employees, though need not conform to all the requirements of judicial proceedings, they must however satisfy the essentials of natural justice. The guiding principles, therefore, is that the inquiry should be conducted with scrupulous regard to the requirement of rules of natural justice i.e. without bias and by giving the delinquent employee opportunity for adequately representing his case, as the question of action taken by the employer is an issue. A part from compliance with the requirement of rules of natural justice, the inquiry must be held honestly and bonafide with a view to determine whether the charge against the particular employee is proved or not and care must be taken to see that these inquiries do not become an empty formalities. With all this in mind I proceed to examine whether in the case the domestic inquiry held by the Management was fair and bonafide.

Certified true copies of the inquiry proceedings are on record. These show that the inquiry against the workman started on 12th March, 2001. The workman was present besides the Presenting Officer and the Inquiry Officer, in the Panchkula Branch of the Management. After going through the formalities of accepting the authority letter of the Presenting Officer, the Inquiry Officer asked the EPA

whether he has received the charge sheet. The workman replied in affirmative. He also admitted to have understood the charge and submitted the authority letter and submitted that Shri B.S Gill shall defend him. With regard to the question whether he admits the charges levelled against him, the workman deposed that he is suffering from acute depression for the last so many years and because of that he had to be on long leave. He claimed to have submitted some medical certificates of Dr. S.K Dhir besides that of CMO, Panchkula. He admitted that he had taken loans from different societies and other financial institutions. He further claimed that under the state of depression he had applied for VRS as he did not like to burden his parental institution further. He requested the Inquiry Officer take a lenient view and allows him to live a peaceful life.

He further stated that he accepts the charges *in toto*, voluntarily and unconditionally and without any pressure. He sought the mercy of the Inquiry Officer and requested for closing the inquiry. The Inquiry Officer repeated the question whether he accepts the charges, the EPA replied in affirmative stating that he is admitting the charges without any coercion or inducement.

It is on record that despite the request of the workman for closing the inquiry, the Inquiry Officer enquired from the Presenting Officer whether the inquiry should be closed or not. The Presenting Officer desired to produce documents in support of the claim of the Management. The Inquiry Officer allowed him to produce the same. The EPA objected to it and insisted that the inquiry should be closed. The Inquiry Officer accepted the documents and placed the same on record. He observed that since the EPA has voluntarily and without conditions admitted the charges, fully well knowing the consequences thereof, therefore, he closes the inquiry proceedings. It is on record that the proceedings were conducted not only in the presence of the workman, but also in the presence of his representative and both of them decides the Presenting Officer and Inquiry officer, put their signatures acknowledging the correctness of the proceedings as noted by the Inquiry Officer.

From the record of the proceedings of the inquiry it is clear that the Inquiry Officer before proceedings in the inquiry confirmed the serving of charge-sheet upon the workman. He conducted the inquiry in presence of the workman and his representative Shri B. S Gill. During the course of the inquiry proceedings the Inquiry Officer put the question to the EPA whether he understands the charge sheet. The EPA replied in the affirmative. Then he asked the EPA whether he admits the charges framed against him. The EPA admitted the charges in totality without any reservation. He rather made a detailed statement stating that since he was suffering from depression, therefore, he remained on long leave and that he had raised loans from the cooperative societies and other financial institutions. The manner he replied the questions it cannot be even suspected that he was not in a good state of health to make such a statement. Moreover, Shri B.S Gill is nominated as

defence representative remained present although the proceedings as he signed the proceedings at the time of its conclusion. Neither in the statement of claim nor during his statement the workman ever alleged that he was not in proper state of health when he admitted the charges before the Inquiry Officer. He however, claimed that since he had replied the questions of the Inquiry Officer in a mono syllable "Yes Sir" he was under the spell of assurance given by the Inquiry Officer. He alleged that the defence representative also acted as a stoog of the Management, but he did not give the reasons as to how he believed so. As to why the defence representative joined hands with the Inquiry Officer or the Management and why he did not request for change of the defence representative is not shown to the workman. He also did not produce any evidence to show as to why he kept silent for two years and did not alleged that before the Disciplinary Authority or the Appellate Authority. Thus it seems the allegation made of the workman is purely afterthought.

If we keep the admission of the workman, before the Inquiry Officer aside, then also, there is admission on the part of the workman made in the statement of claim that he had remained absent from duty. According to him he had been applying for grant of leave to the Management. In para No.6 of his statement of claim, impliedly, he admitted that he remained absent from duty for the days shown but claimed that he had been sending intimation to the Management alongwith medical certificates. The question that arises whether it was sufficient for the workman to have intimated the Management about his absence from his duty or it was his duty, to see that the leave applied for is sanctioned in his favour. Similarly he did not deny, in para No.7 on his statement of claim, that he had not raised the loans from cooperative societies and Banks. He only contested that the raising of loans for indulging in business activities, while in the service of the Management, the workman did not conduct any misconduct. I further find that the Management placed on record the photo copies of a number of memos, issued by the Management to the workman and the same are shown to have been received by him. There is also copy of a telegram marked MP3, sent to the workman, the photo copies of leave account of the workman, copy of the legal notices issued to the workman by Mittal and Advocates, copy of warrant of arrest, photo copies of payments made to Ceat Financial Services, the copy of the bounce cheque, the photo copies of letters to the Management Bank, from all zone Bank employees cooperative society, which shows that the workman had developed the habit of raising loans from different institutions. He was also involved in criminal proceedings in which he was bailed out by a Criminal Court. All these documents support the charges framed against the workman and it seems that when faced with this amount of evidence, he had no option but to admit the charges framed against him. He, however, requested for a lenient view to be taken by the Inquiry Officer and when he found that the Management has relieved him from the service, he bounced

back and made the allegations of grant of assurance and that of, his defence representative joining hands with the Management. Otherwise, he would have made all those allegations in his appeal before the appellate authorities. From the activities of the workman which are shown to have been done by him, it cannot be accepted that he was under depression and was unable to attend to his duties. How it can be accepted that a person who raised loans of lacs of rupees, dealt with so many situations and followed business activities.

At present I am only required to know whether the Management had held a fair and proper inquiry in the matter or not. After going through the inquiry proceedings I am satisfied that the Management held a fair and proper inquiry in the matter. They provided full opportunity to the workman to defend himself. He was provided with defence help and copies all the documents, to be produced against him in the inquiry. He however, admitted the charges levelled against him and after he did so the Inquiry Officer was justified to conclude the inquiry. After the admission of guilt by the workman, there was no requirement for the Management to produce evidence but still the Management produced the documents. In this regard I am supported by the judgment of Hon'ble Supreme Court reported as Central Bank of India V/s Karunamoy Bannerjee reported as (1967 2LLJ 739). I have also considered the quantum of punishment awarded to the workman. I find that the punishment awarded was also proper. Who would have accepted an employee who remain absent from duty for half of the year and still wants to be in the employment, especially by the financial institution where the integrity, conduct & efficiency are the hallmark of the employees, so as to raise and maintain the reputation of the institution they work. In the circumstances I find that the domestic inquiry conducted against the workman was fair and proper.

In view of the discussion made above I am of the opinion that the action of the Management of Central Bank of India in awarding the punishment of discharge to Shri Yash Pal Singh was legal and justified. Therefore, the workman is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ. 4633.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ नं.-2 के पंचाट (संदर्भ संख्या 978/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/215/2000-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4633.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 978/2k5) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chandigarh No. II as shown in the Annexure in the industrial dispute between the management of Punjab National Bank and their workman, received by the Central Government on 08-11-2006.

[No. L-12011/215/2000-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II CHANDIGARH

Presiding Officer : Shri Duldip Singh

Case No. I. D. No. 978/2005.

Registered on 13-02-2001.

Date of Decision 13-09-2006.

The president, Punjab National Bank Workers Union
(NZ), EG 810-A, Mohalla Gobindgarh, Jalandhar
(Punjab).

PETITIONER

Versus

Punjab National Bank, The Zonal Manager, PNB, Zonal
Office, Ferozchandhi Market, Ludhiana

RESPONDENT

APPEARANCE

For the Workman : Mr. D. P. Tank AR

For the Management : Ms. Neeru,
Law Officer

AWARD

The workman is not present, Management appears through representative.

On 27th July, 2006, the representative of the workman submitted representation in writing, dated 23rd Jan., 2006, through the representative of the Management. In the petition he stated that the workman has not approached the Trade Union of which he is the President and the Union does not know about the whereabouts of the workman. Therefore, they withdraw from the prosecution of the reference. Since the representation had come through the Management, therefore, it was directed to the Management to cause the presence of the President of the Trade Union, prosecuting this case. It is stated by their representative today that they had informed the President to be present in the court today but he is not present. As an abundant caution I directed that a notice under R/C shall go to the President of the concerned Union, to appear, to admit or deny the statement attributed to him by the Management. The notice was sent under R/C, Postal receipt No. 270 dated 28th July, 2006. More than 30 days have passed by but neither the representative of the Union is present nor the

R/C, carrying the notice, has been received back. This confirms that the workman have received the notice, but they have no interest left in prosecuting this case. It is in these circumstances the reference is being answered in their absence.

The Government of India vide notification No. L-12011/215/2000/IR (B-II) dated 16th Jan., 2001 desired to know as under :—

“Whether the action of the Management of Punjab National Bank in dismissal from services of Shri Roshan Lal is legal and just ? If not, what relief the concerned workmen is entitled to and from which date ?”

After the receipt of the notification, the notice thereof was issued to the parties. The workman filed the claim Petition, to which the Management filed the reply. The workman filed the rejoinder and the affidavit of Mr. D. P. Tank, President of the Union. The case was at the stage of filing the affidavit by the Management, when the petitioner as a Union and the workman as individual, stopped appearing in the case. The court issued notices but of no result and ultimately on 27th July, 2006, as noted earlier, the President of the Union withdraw from prosecuting the case. On record I do not find any evidence to support the pleadings of the parties. There are claims made by the workman and denied by the Management. The affidavit of witness of the workman is not proved under law and it is a settled principle that the pleadings cannot take the place of proof. In his view of mine I am supported by the judgement of Hon'ble Supreme Court in the case of Manager RBI Bangalore V/s S. Mani & Others reported as FLR 2005 (105) Page 1067.

Thus I find that the workman has failed to prove that the Management of Punjab National Bank was unjustified to dismiss Shri Roshan Lal, the workman, from service and, therefore, their action was illegal. In the absence of any proof, it is further held that the workman is not entitled to any relief. Therefore, the award is passed against him. Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4634.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई नं.-1 के पंचाट (संदर्भ संख्या 22/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/226/2003-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4634.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Mumbai No. I as shown in the Annexure in the industrial dispute between the management of Bank of Maharashtra and their workman, received by the Central Government on 8-11-2006.

[No. L-12012/226/2003-IR (B-II)]

AJAY KUMAR, Desk Officer

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI**

PRESENT

Justice Ghanshyam Dass, Presiding Officer

Reference No. CGIT-22 of 2004

PARTIES : Employers in relation to the management of Bank of Maharashtra

AND

Their Workmen

APPEARANCE

For the Management : Mr. M. B. Anchan, Adv.

For the workman : Workman absent

State : Maharashtra

Mumbai dated the 18th day of October 2006

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order NO. L-12012/226/2003-IR(B-II) dated 11-3-2004. The terms of reference given in the schedule are as follows:

Whether the demand of Shri Shrikant V. Joshi for the entitlement of the benefit of pension as per order dated 6-10-1993 entitling him 'Dismissal without notice w.e.f. 11-9-1993 with terminal benefits is legal, proper and justified? If so, what relief he is entitled from the management of Bank of Maharashtra and from which date and what other directions are necessary in the matter?

2. The workman Mr. Shrikant V. Joshi, has alleged that he was in the employment of the Bank of Maharashtra (hereinafter referred to as the Bank. He was dismissed from the service without notice w.e.f. 11-9-1993 with all terminal benefits. The order reads "Dismissed without Notice with effect from 11-9-1993. He is entitled for Terminal benefits subject to recovery if any". The applicant has been denied

the benefit of pension to which he is entitled as per Pension rules.

3. The Bank has contended that the payment of pension is governed by Bank of Maharashtra Employees Regulations 1995. The Regulation 31 thereof makes it clear that the pension would be payable to the employees who are dismissed, removed or terminated after 1st November 1993. Since Mr. Joshi was dismissed from service w.e.f. 11-9-1993 i.e. much before the implementation for entitlement of the pension w.e.f. 1st November 1993, Mr. Joshi is not entitled to any pension.

4. The workman filed the written arguments on 18-8-2006. The Bank also filed written arguments on 22-9-2006. The matter was fixed for oral arguments on 5-10-2006. On that day, the workman did not appear. The matter was argued by the counsel for the Bank and kept for Award. Thereafter, an application was received from Mr. Joshi that he would submit the written arguments on 11-10-2006. No submissions have been received till date i.e. 18-10-2006.

5. On a perusal of the record, the legal position is very clear. There is no dispute about the fact that the workman was dismissed from service without notice w.e.f. 11-9-1993 with terminal benefits. The dispute is only with respect to payment of pension. The workman is dismissed without notice vide sub clause (a) of Section 7 of Disciplinary Action and Procedure for the Bank. The word 'retirement' means cessation from Bank's service,-

- (a) on attaining the age of superannuation specified in Service Regulations or Settlements;
- (b) on voluntary retirement in accordance with provisions contained in regulation 29 of these regulations;
- (c) on premature retirement by the Bank before attaining the age of superannuation specified in Service Regulations or Settlement, Chapter IInd of the Pension Rules is with respect to Application and Eligibility. It provides that these regulations shall apply to employees who:—

(1) (a) Were in the service of the Bank on or after the 1st day of January, 1986 but had retired before the 1st day of November, 1993 and

(b) Exercise an option in writing within one hundred and twenty days from the notified date to become member of the Fund; and

(c) refund within sixty days after the expiry of the said period of one hundred and twenty days specified in clause (b) of the entire amount of the Bank's contribution to the Provident Fund including interest.

accrued thereon together with a further simple interest at the rate of six per cent per annum on the said amount from the date of settlement of the Provident Fund Account till the date of refund of the aforesaid amount to the Bank, or

- (2)(a) have retired on or after the 1st day of November, 1993 but before the notified date; and
- (b) exercise an option in writing within one hundred and twenty days from the notified date to become member of the Fund, and...

The Bank of Maharashtra (Employees) Pension Regulation 1995 vide 03 provides---it has been clarified that retired/present employee or family members of employee (who were in service as on 01-1-1998 but are since deceased) who have not yet exercised option for pension may exercise option within 120 days from the notified date i.e. from 29th September, 1995 and would become eligible under the Pension Scheme. Hence, they may submit their option within 120 days from 29th Sept, 1995 i.e. before 26th January 1996.

31. Compassionate Allowance

- (1) An employee, who is dismissed or removed or terminated from service, shall forfeit his pension :

Provided that the authority higher than the authority competent to dismiss or remove or terminate him from service may; if---

- (i) Such dismissal, removal or termination is on or after the 1st day of November, 1993, and
 - (ii) the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of the pension which would have been admissible to him on the basis of the qualifying service rendered up to the date of his dismissal, removal or termination.
- (2) The Compassionate Allowance sanctioned under the proviso to sub-regulation (1) shall not be less than the amount of minimum pension payable under regulation 36 of these regulations.

6. The bare perusal of the aforesaid provision makes it crystal clear that no pension is payable to the persons to an employee who was dismissed from service before 1st Nov, 1993. The workman under the reference was dismissed much before 1-11-1993 and hence, he is not entitled to any

pension. He is not a retired employee but a dismissed one. The confusion appears to have arisen in the mind of the workman on account of the provision of family pension which is payable to the members of the family of the employees who were in service as on 01-1-1986 but are since deceased. This provision is not helpful to the workman who is very much alive. He cannot claim any benefit of the fact that he was in service on 01-1-1986. The payment of the pension to the workman is payable only w.e.f. 01-11-1993 and since the workman under reference was not an employee on 01-11-1993 the question of any payment of pension to him does not arise. I do not find any force in the argument of the workman that he is entitled to claim any pension from the Bank as per law. There is no dispute about the payment of other terminal benefits after the passing of the order of dismissal date 11-9-1993.

7. Hence, I conclude that the demand of Shrikant V. Joshi for the entitlement of the benefit of pension from the Bank is not justified and the workman is not entitled to any relief.

An award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4635.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण इरनाकुलम के पंचाट (संदर्भ संख्या 9/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/106/2005-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4635.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the industrial dispute between the management of Bank of India, and their workman, received by the Central Government on 08-11-2006.

[No. L-12011/106/2005-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri P. L. Norbert, B.A., L.L.B, Presiding Officer
(Thursday the 19th day of October, 2006/27th Asvina, 1928)

I. D. 9/2005

| | |
|---------------|--|
| Workman/Union | : The District President Kerala Private Transport Workers Congress 'Chaithanya' Ernakulam Adv. Shri C.S. Ajith Prakash |
| Management | : The Zonal Manager Bank of India Zonal Office, Kaloor Towers Ernakulam. Adv. M/s. P. R. Nair & Devan Ramachandran |

AWARD

This is a reference made by Central Government under Section 10 (I)(d) of Industrial Disputes Act, 1947 for adjudication.

The reference is:-

"Whether the action of the management of Bank of India in not regularizing the services of personal drivers of Executives viz. Shri P.M. Benjamin and Shri T.V. Joseph and terminating their services are correct? If not to what relief the workers are entitled?"

2. The facts of the case in brief are as follows:

The union, Kerala Private Transport Workers Congress, has espoused the cause of two drivers of Executives of the management, Bank of India. According to the union, Shri P.M. Benjamin was appointed by the Regional Manager of the bank in 1990 as driver to bank's car. He worked under different regional managers, chief regional managers and zonal managers. He was given salary and other benefits that are usually given to an employee of the bank. His salary was revised from time to time. He was attending to official and personal duties of the executives of the Bank. He was sometimes made to work also as peon of the bank. He had applied to the Chief Regional Manager requesting to regularize him in service. His representation was forwarded to the Head Office. While so, on 18-2-2005 his service was terminated without assigning any reason. Shri T.V. Joseph was similarly recruited as driver of the Manager of NRI branch of the bank on 3-5-1993. He worked with successive branch managers of NRI branch till 19-2-2005. No notice of termination was given to him. The bank's car was used for official and personal purpose by the managers. All benefits like medical allowance, car washing allowance, etc. were given to the drivers. All the repair work of the bank cars were attended to by the drivers by taking the vehicles to the workshop, purchasing spare parts and getting payment orders from the bank. Both the drivers have worked more than 240 days every year. There was no break in their service. The termination is illegal. Pending conciliation before the Labour Commissioner the services of the drivers were terminated. They have put in long years of service and they are entitled to be regularized. The termination at any rate is illegal and in violation of the provisions of ID. Act.

36579/06-23

3. According to the management, the union is not competent to represent the workers. The de facto claimants, S/Shri Benjamin and Joseph were not employees of Bank of India. There was no employer-employee relationship between the bank and the claimants. Both drivers were the personal drivers of Executives of the bank. They were never employed as official drivers of the bank. The employers of the drivers were the respective officers. If remuneration and other service benefits were given to the drivers it was not given by the bank but by their employers, viz. the concerned officers. The bank had neither appointed them nor terminated their services. If allowance and other benefits were given to the drivers they were not provided by the bank but given by the concerned officers according to their discretion. The drivers are not workmen coming under the ID. Act. The alleged termination was not effected by the bank and hence no relief can be claimed against the bank.

4. In the light of the above pleadings the following points arise for consideration:

- (1) Were the claimants the drivers of the bank or personal drivers of Executives?
- (2) Whether the termination of their service is illegal?
- (3) Are they entitled for regularization?
- (4) To what relief, if any, claimants are entitled?

The evidence consists of oral testimony of WW1 to WW4 and documentary evidence of Exts. W1 to W28 on the side of union and MW1 and Exts. M1 & M2 on the side of management.

5. Point No. (1) :

Shri P.M. Benjamin was working as driver of Regional Manager, Kochi from 12-2-1990. On 1-12-1997, on the basis of an application of Shri Benjamin for regularization, his name was recommended. As there was no favourable response, he filed a writ petition [W.P.(C) 4547/2005] for regularizing his service. However after the disposal of writ petition on 18-2-2005 his service was terminated by the zonal manager.

6. Shri T.V. Joseph joined the service as driver of Manager of NRI Branch on 20-4-1993. Since he apprehended termination of his service he too joined Shri Benjamin to file the above mentioned writ petition for regularization. His service was also terminated on 18-2-2005 after the writ petition was disposed off.

7. According to the claimants they were drivers of the bank and not personal drivers of officers. According to the management they were only personal drivers of the executives of the bank and not the drivers of the bank. Shri T.V. Joseph (WW1) admitted during cross-examination (page 3) that he was taken as personal driver of the Manager of NRI Branch, Enakulam. He also said that the outgoing managers used to introduce him to the successive managers

(page 5). He also admitted that he was the personal driver of Shri E.P. Gopakumar (Manager) before his service was terminated (page 6). He also said that when he applied for membership in the union of Kerala Private Transport Workers Congress his occupation was mentioned as personal driver in Bank of India. However Shri Benjamin has not made any such admission in his statement. Admittedly no appointment order was given to both claimants. They were orally appointed by the executives of the bank. Therefore the nature of the appointment and the duties assigned to them are to be gathered from materials on record.

8. The Hon'ble Supreme Court in Punjab National Bank v/s Gulam Dastagir AIR 1978 SC 481 observed that the direction given and the control exercised over the work are tests to decide whether a person is a workman of the concern or not. There may be other factors which compliment these tests and they can also be taken into account while deciding the issue.

In the decided case the respondent Ghulam Dastagir was appointed as driver of Area Manager of Punjab National Bank. The question that arose for consideration was whether he was the personal driver of the Area Manager or official driver of the Bank. The Industrial Tribunal found that he was the official driver of the Bank. The Hon'ble Supreme Court reversed that finding and held that in the facts and circumstances of the case it was not possible to arrive at a conclusion that the respondent was a driver of the Bank. However, in paragraph 3, 4 & 5 at pages 482 and 483 it is observed as follows :—

"3. We have no doubt that if in this case there was evidence to show any colourable device resorted to by the Bank, our conclusion would have been adverse to the Management. On the other hand, the evidence adduced before the Tribunal, oral and documentary, leads only to one conclusion that the Bank made available a certain allowance to facilitate the Area Manager, Shri Sharma privately to engage a driver. Of course, the jeep which he was to drive, its petrol and all requirements and maintenance, all fell within the financial responsibility of the Bank. So far as the driver was concerned, his salary was paid by Shri Sharma as his employer who drew the same granted to him by way of allowance from the Bank. There is nothing on record to make out a nexus between the Bank and the driver. There is nothing on record to indicate that the control and direction of the driver vested in the Bank. After all, the evidence is clearly to the contrary. In the absence of material to make out that the driver was employed by the Bank, was under its direction and control, was paid his salary by the Bank and otherwise was included in the army of employees in the establishment of the Bank, we cannot assume the crucial point which remains to be proved. We must remember that there is no case of camouflage or circumvention of any

statute. It is not unusual for public sector industry or a nationalized banking institution to give allowances to its high-level officers leaving it to them to engage the services of drivers or others for fulfilling the needs for which the allowances are meant. In this view, we are clear that the award fails as it is unsupportable. We, therefore, reverse the award.

4. We wish to make two comments. It is quite conceivable that the facts in this case of employment of other drivers may be different. If other materials are available regarding the terms and conditions of service, regarding the direction and control of the drivers and regarding other indicia of employment, the conclusion may be different. We cannot, therefore, dogmatize generally as to the nature of employment of other drivers under this Bank or other industry even where features of allowance may be present. We mention this, because, as Lord Macmillan pointed out in the case, we have already referred to, facts vary from case to case. Evidence is shaped in each case and conclusions are reached on the basis of the facts and evidence of each case. There is no invariable proposition where fluid facts are involved.

5. We are impressed with Shri Khara's appeal to us that the system of allowances in a country where there is unemployment may lead to individual injustice with an exploitative edge. It is likely that if the Bank had to employ drivers for their vehicles, the terms and conditions would have been much higher but in the private sector individual drivers may, be hired on lower pay. This is not a desirable tendency for a public sector undertaking like a nationalized Bank. We hope that the possibility of abuse of the system of drivers' allowances and the obligation of the public sector undertakings to be model employers will lead to a change in the approach of our nationalized banks and other public sector undertakings towards this issue of employing persons on a private basis by senior officers and the management itself giving some small sum by way of allowances in lieu of procuring such services. A fair and straightforward method would be for the Bank or like institution to engage its own driving staff."

In Bank of Baroda v/s. Ghemarbhai Harjibhai Rabari 2005(2) Supreme 628 the respondent claimed that he was a driver of Bank of Baroda. His service was terminated. He claimed reinstatement. The Bank contended that he was only a personal employee of an Executive. The salary paid to him by the executive was only reimbursed by the Bank to the Executive. The Industrial Tribunal had found that there were three vouchers showing payment of salary to the worker by the Bank. The Bank had also obtained signatures of the workman in their register. No contrary evidence was adduced by the Bank. The Bank also had not denied the three vouchers produced by the workman. They also failed to explain the vouchers. The Industrial Tribunal held that the driver was the workman of the Bank. The Hon'ble Supreme Court observed that the Bank of Baroda

being a nationalized bank appointment under its rules and regulations has to be made by issuing appointment letter and the appointment has to be made either through employment exchange or through an advertisement in the paper. The Bank has a scheme under which the Bank allows cars to some of its executives, but does not provide drivers. It is the responsibility of executives to appoint their own personal drivers and the salary paid to them is reimbursed to the executives by the Bank. However the Hon'ble Supreme Court held that in the facts and circumstances of the decided case there was material to show that the Bank had recognized the driver as Bank's driver and not the personal driver of the Executive. Hence the finding of the Industrial Tribunal was upheld.

The next decision relied on by the Learned Counsel for the claimants and reported in *Management of Indian Bank vs. Presiding Officer, Industrial Tribunal, (Central) Madras 1990 I-LLJ 50*, the subject matter of dispute was whether Tiny Deposit collectors were workmen or not. A Division Bench of Madras High Court held that the Bank was exercising control and supervision over the work of Tiny Deposit Collectors and they were not independent contractors and hence fall within the definition of workman under I.D. Act.

Another decision cited by claimants counsel and reported in 1983 4 SCC 214 S. K. Verma vs. Mahesh Chandra, the Development Officers of Life Insurance Corporation claimed that they were workmen coming under the definition of I.D. Act. The Industrial Tribunal held that they were not workmen within the meaning of Section 2 (s) of I.D. Act. A writ petition filed by the workmen before Delhi High Court was dismissed in limine. The Hon'ble Supreme Court observed that the Development Officers cannot be said to be engaged in any administrative or managerial work. They are workmen within the meaning of Section 2 (s) of I.D. Act. In that case the Hon'ble Supreme Court was mainly dealing with definition of workman and its broad meaning (para 4 & 5).

9. Keeping in mind the broad guidelines given in the aforesaid decisions to test the nature of employment I will go into the merits of this case.

Admittedly, the vehicles driven by the claimants belonged to the Bank. Shri Benjamin was the driver of the car of Regional Manager initially and then of Zonal Manager. Shri Joseph was the driver of Manager of NRI branch. It is also admitted that the vehicles were used for personal and official purposes of the executives aforementioned. The claimants admit that no appointment order was given to them at the time they joined duty. No service conditions were also prescribed. Admittedly there was no advertisement in the newspaper about the vacancy of drivers in the bank. Both Joseph and Benjamin (WW1 & WW2) say that they came to know about the vacancy from others and approached the respective officers. When they approached the Manager of NRI branch and the Regional Manager respectively offering their services as drivers,

they were interviewed by the executives, perused their licences, enquired about their experience and asked them to drive the vehicles. Thereafter they were asked to join duty. The Bank of India being a Nationalized Bank, they have their own procedure and regulation for recruitment of staff including sub-staff. The appointment of these two drivers was not made through the usual mode by advertisement and following procedure of recruitment or through employment exchange. But even in the absence of normal procedure of selection, the nature of employment can be found out from the duty assigned to them, the supervision and control exercised by the employer etc.

10. In this case the salary to the drivers was paid by the officers who were using the vehicles and the Bank reimbursed the officers. This is done on the basis of circulars and memorandum, Exts. W3, 4, 5, 6, 13, 14, 20, 22, 27 and Ext. M2. They show that the personal drivers were paid on daily wage basis. The salary was revised from time to time by the head office. Besides the wages, there was provision for car washing allowance, expenses for meals while on outstation duty and medical allowance. But all these payments were made by the executives to the drivers and not by the Bank directly. The Bank only reimbursed the concerned officers. Exts. W1, W2, W15 series and W21 series are vouchers. But they are vouchers issued in the name of executives and signed by them (reverse side) and not in the name of drivers or signed by them. Exts. W8, 9 & 24 series are copies of invoices showing purchase of spare parts for the purpose of repair and maintenance of vehicles. The drivers in this case were entrusted with duty of getting the vehicles repaired. The payment to the workshop as well as to the spare parts shop was made by the Bank. That will not in any way indicate that the drivers were discharging duty of an official driver. These directions were given by the concerned executives who were using the vehicles. Exts. W1 & W25 are the Log Books written by the drivers. It is definitely their duty to write the Log Books being the drivers of the vehicles. That again will not show that they are Bank's drivers.

11. Ext. W11 is a request by Shri Benjamin to the Chief Regional Manager to appoint him as permanent driver. There he admits that he was taken as personal driver of Chief Regional Manager on 12-2-1990. Ext. W12 is a forwarding letter enclosing Ext. W11 request of Shri Benjamin to the Zonal Manager. Exts. W17 & W18 are representations of the union of the workers to the ALC (C) for conciliation of the dispute raised on behalf of drivers. Ext. W19 is a request of Shri Benjamin to the Zonal Manager for reinstatement. Ext. W23 is a letter by Manager of NRI branch to the Chief Regional Manager, Ernakulam requesting for enhancing the salary of personal driver. Ext. W26 is a letter from Zonal Manager to the Chief Regional Managers of all regions stating that the vehicles provided to different officers within the zone were not properly maintained and records and registers of the vehicles too were not maintained properly. These documents also do not help the drivers to show that they are drivers of the

bank and directions were given by the bank. The same drivers were utilized for personal and official purposes. It is to be noted that Ext. W6 Inter-office Memorandum dated 15-2-1990 will show that certain officers were allowed to use the car for personal purposes and engage personal drivers. The drivers are to be paid by such officers and the bank reimburses the officers. It is relevant to note that in para 3 of Ext. W6 it is mentioned that there shall be no reference in Bank's records about the personal drivers. Ext. W27 Inter-office Memorandum dated 5-9-2001 says that personal drivers are engaged by the executives of the bank in their personal capacity and there is no employer-employee relationship between the bank and drivers. Bank can make recruitment only through regular recruitment channels. Hence officers were advised not to forward request for absorption of personal drivers in bank.

12. The learned counsel for the claimants relied on Ext. W7 to say that bank had treated Shri Benjamin as bank's staff. Ext. W7 is a copy of the particulars of Shri Benjamin sent to General Manager (Pers.), Head Office by the Deputy Regional Manager on 6-9-1995. The document contains the name, date of birth, age, date of first engagement, the period of service, consolidated wages, revised wages, etc. But there also it is mentioned that Shri Benjamin was a personal driver. The genuineness of Ext. W7 was questioned by the management at the time of examination of WW2 (page 8 of WW2). Assuming that the document is a copy of the original kept in the head office of the bank it does not help the claimant to show that he was either appointed as bank's driver or was treated as bank's driver subsequently. It is a document sent by Deputy Regional Manager who had engaged Benjamin as his personal driver, about the particulars of personal driver for the purpose of record. Ext. M2, page 2 was again brought to my notice by the learned counsel for the claimants wherein it is mentioned that when the executive officers concerned are on leave the personal drivers may be, asked to report to the Estate Department/Administration Department so that their services can be utilized as personal drivers by some other eligible officers. This is an instruction from zonal office to all regional managers requesting the concerned executives to instruct their personal drivers to report to the Administration Department whenever the concerned executives were on leave so that the services of drivers could be utilized by other officers as their personal drivers. Again this is not an instruction given by the bank directly to the drivers but to the executives who in turn instructed the drivers. Lastly it was submitted by the learned counsel for the claimants that the zonal manager who has filed the written statement and who terminated the service of one of the claimants in this case has not mounted the box to vouch his statement. Therefore an adverse inference is to be drawn against the bank that the drivers are bank's drivers and not personal drivers. The very documents produced by claimants themselves show that they were engaged as personal drivers of officers. The evidence reveals that they were neither appointed nor terminated by

the bank. The bank has not exercised supervision or control over the work of drivers. They were not paid by the bank but by the officers. No leave was applied or granted by the bank. In the light of the overwhelming materials on record, the evidence of the zonal manager cannot alter the position. It cannot also supersede the volume of evidence on record to the contrary.

13. For the reasons stated above I find that the claimants were engaged as personal drivers by the executives of the bank and they continued to be so till their services were dispensed with by the executives and they were not treated as bank's drivers at any point of time by the bank. Point is answered accordingly.

14. Point No. (2):

I have already pointed out that the claimants were personal drivers of the executives of the bank and not employees of the bank. Unless the bank had employed them either as regular drivers or on daily wage basis or *ad hoc* basis they cannot claim to be workmen coming u/s-2 (s) of I.D. Act. No doubt, the definition is very wide to include any kind of employment including that of casual labour. However, a personal driver cannot be treated as an employee of the bank (industry), whether casual or temporary or *ad hoc*. Unless the claimants are workers falling within the definition of 'workman' under I.D. Act they are not entitled for a termination notice or compensation in lieu of notice as mentioned in Section 25F of I.D. Act. Though claimants admitted in the box that their services were terminated by the concerned executives, unless the termination is in violation of the provisions of I.D. Act it cannot be termed as an illegal termination and hence no relief can be claimed by them. Point is answered accordingly.

15. Point No.(3):

There is a claim for regularization of the claimants in the bank. That question does not arise for consideration in view of the above finding that they were personal drivers of executives and not drivers of the bank and they were not terminated by the bank but by the officers and the termination is not illegal. Assuming that the claimants were taken as casual workers on daily wage basis, even then they are not entitled for regularization in view of the latest pronouncement of the Hon'ble Supreme Court in Secretary, State of Karnataka v. Umadevi 2006 4SCCI. Paragraphs 28, 29, 43 & 47 contain relevant discussion on the aspect. The management is a nationalized bank and the ruling squarely applies to the facts of this case. Therefore the claimants are not entitled for regularization in the bank. Found accordingly.

16. Point No. (4): (See Award portion)

17. In the result, an award is passed finding that the action of the management in not regularizing the services of claimants, is correct. The bank has not terminated the services of the claimants. However the termination of the services of the claimants by the executives of the bank is

legal and correct. The claimants are not entitled to any relief. The parties are directed to suffer their costs. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 19th day of October, 2006.

P.L.NORBERT, Presiding Officer

APPENDIX

Witness for the Workman/Union:

- WW1- Shri T.V. Joseph
- WW2- Shri P.M. Bengamin
- WW3- Shri Mathai P. Thomas
- WW4- Shri M.A. Vincent.

Witness for the Management:

- MW1- Shri Radhakrishnan Unnithan

Exhibits for the Workman/Union:

- W1- Photostat copy of Voucher dated 1-8-2000.
- W2- Photostat copy of Voucher dated 24-2-2001.
- W3- Photostat copy of Circular No. S2:SD:AGB:592 dated 11-3-1999.
- W4- Photostat copy of Circular No.P:A:VTB:2462 dated 7-9-2000.
- W5- Photostat copy of Circular No. P/A/RTD/955 dated 9-8-2002.
- W6- Photostat copy of Inter O.M. No.P:IR:ABR.1906 dated 15-2-1990.
- W7- Photostat copy of letter dated 4-9-1995 from the Head Office to the Regional Office
- W8- Photostat copy of Invoice No. 7743 dated 18-9-2003 of M/s. Galaxy Autospares.
- W9- Photostat copy of Invoice No. 7669 dated 14-8-2003 of M/s. Galaxy Autospares.
- W10- Photostat copy of Log Book of the Bank car for the year 2002.
- W11- Photostat copy of Application dated 1-12-1997 submitted by Shri P.M. Benjamin to the Chief Regional Manager.
- W12- Photostat copy of letter dated 2-12-1997 from the Chief Regional Manager to the Zonal Manager.
- W13- Circular No.ZO:PERS/KKK/4517 dated 7-11-1990.
- W14- Circular No. Z:PERS:LJ:5019 dated 3-2-1994.
- W15- Series - Vouchers.
- W16- Certified copy of judgement in WP(C) 4547/05 dated 9-2-2005 of the Hon'ble High Court of Kerala.
- W17- Photostat copy of industrial dispute raised by the union U/s. 33 (1) of ID Act before ALC (C) on 11-2-2005.

- W18- Photostat copy of application dated 22-2-2005 filed by the Union U/s. 33 (1) of ID Act before ALC (C).
- W19- Photostat copy of letter from Shri P.M. Benjamin to the Zonal Manager.
- W20- Photostat copy of Circular No. ZO:SO:ZVC: 344 dated 22-11-1994.
- W21- Series Vouchers
- W22- Photostat copy of Circular No. ZO:PERS:MRM: 4006 dated 23-11-1993.
- W23- Photostat copy of letter dated 15-1-2002 from Manager, NRI Branch, Ernakulam to the Chief Regional Manager.
- W24- Series -Photostat copies of Invoice issued from M/s. M.G. Motors, Galaxy Autospares and Geo Motors (P) Ltd.
- W25- Photostat copy of Log Book of Bank's car.
- W26- Photostat copy of letter No. S2:SD:AGB: 187 dated 26-8-2000.
- W27- Photostat copy of circular No. P:R:SCT:BVV:336 dated 5-9-2001.
- W28- Photostat copy of Sanction Register of Bank of India, Kerala Zonal Office.

Exhibits for the Management:

- M1- Copy of Circular No. P/A/RTD/955 dated 9-8-2002.
- M2- Circular No. ZO:SO:AGB:67 dated 22-5-1997.

नई दिल्ली, 8 नवम्बर, 2006

का.आ 4636.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 25/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-12011/286/2003-आई.आर.(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4636.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the management of Syndicate Bank and their workman, received by the Central Government on 8-11-2006.

[No. L-12011/286/2003-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Date 31st October 2006.

Presiding Officer : Shri A. R. Siddiqui

C. R. No. 25/2004

| I Party | II Party |
|---|--|
| The Secretary, Syndicate Bank Employees Union, No. 138, 2nd Floor, 2nd Main Road Seshadripuram, Bangalore-560 020 | The Assistant General Manager, Syndicate Bank, Head Office, Syndicate Towers, Manipal, Udupi-576 101 |

APPEARANCES

| | | |
|----------|---|--------------------------------------|
| I Party | : | Shri U Abdul Jaleel General Secy. |
| II Party | : | Shri Ramesh Upadhyaya Advocate |

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12011/286/2003-IR (B-II) dated 11-03-2004 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank, Zonal Office, Gandhi Nagar, Bangalore, Karnataka State in imposing the punishments of (a) reduction of basic pay by one stage for a period of one year vide order No. PRS/W/BNG/AGM/2001/78 dated 31-10-2001. and (b) Recovery of Rs. 67,965.00 (Sixty Seven Thousand Nine Hundred and Sixty Five only) with interest there on from the salary or from any other money payable by order No. 626/W/2001/51 dated 16-3-2002 to Shri R Venkataramana Bhat, Clerk, employee No. 144166, Kampli Branch, Hospet Taluk, Bellary District, Karnataka are justified? If not, what relief the workman is entitled to?"

2. When the matter stood for Arguments on Merits, it was taken up before the Lok-Adalat and both the parties appeared and have settled the matter out of court and filed a Memo to pass award accordingly in terms of the said memo. Hence, the following award.

3. Reference is partly allowed in terms of the Memo as under :

1. Punishment to be modified to that of "WARNING" retrospectively.

2. The arrears would be released on modification of the punishment.

3. The financial loss recovered from Sri R V Bhat will not be paid back.

4. Sri R V Bhat is not entitled to any other benefits due to modification in the punishment."

(Dictated to LDC, transcribed by him, corrected and signed by me on 31st October 2006)

A. R. SIDDQUI, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4637.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ नं.-2 के पंचाट (संदर्भ संख्या 974/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/88/91-आईआर.(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4637.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 974/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh No. II now as shown in the Annexure in the industrial dispute between the employer in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 08-11-2006.

[No. L-12012/88/91-IR (B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II CHANDIGARH**

Presiding Officer : Shri Kuldeep Singh

Case No. I. D. No. 974/2k5.

Registered on 15-09-2005.

Date of Decision 12-09-2006.

Rakesh Sharma, Regional Secretary, Punjab National
Bank Employees Union, (Punjab).

Petitioner

Versus

The Regional Manager, Punjab National Bank, Regional
Office, Kapurthala.

Respondent

APPEARANCE

For the Workman : Shri H. C. ARORA
Advocate
For the Management : SHRI P. K. DUTT
Advocate

AWARD

The dispute which has been referred to this Tribunal by the Govt. of India *vide* their reference No. L-12012/88/91 IR(B-2) dated 26th July, 1991 is in the following terms :

"whether the action of the Management of Punjab National Bank in stopping the officiating allowance/ chances of Sh. Rakesh Shrama, Clerk-cum-Cashier-cum-Godown keeper w.e.f. 1-9-1998 is justified? If not, to what relief is the workman entitled?"

On the receipt of reference, the notice there of was given to the parties who appeared through their authorized representatives. The workman filed his claim petition to which the Management filed the reply. The workman then filed the rejoinder and his affidavit whereas the Management filed the affidavit of Shri J.K Gupta, their Manager. The parties have also placed on record photo copies of a number of documents. The Management has also produced a statement showing the seniority list of Clerks/Cashiers of Kapurthala Branch of the Management. The workman appeared as a witness and the Management examined Shri J.K Gupta as their witness.

The claim of the workman is that he has put in 16 years of service for the Management; that he had joined the Bank service after serving the army and, therefore, he was entitled to the benefits allowed by the Ministry of Finance, *vide* their circular No. 10/49/24SCT(B) dated 13th August, 1986. According to him as per the circular the workman was entitled to the benefit of military service in the ratio of 5:1 i.e. one year of seniority for five years of Army Service to the maximum of two years; that the Management adopted the directions of Finance Ministry and as per their circular No. PD/1 026, the benefit granted by the Ministry of Finance was extended to the employees of the Management. As a result thereof the Branch Manager Kapurthala extended the benefit to the workman and his seniority was changed. He was given benefit of officiating duties from August 1987 to August 1988. But suddenly the same was withdrawn. According to him the action of the Management in withdrawing the benefit was illegal, mala fide and unfair. He has prayed for the extension of the benefit of officiating to the workman and payment of compensation for the period for which the benefit was denied to the workman.

The Management has opposed the claim of the workman stating that the issue involved is not an Industrial Dispute as it does not relate to the workmen at large and is exclusively an individual grievance, therefore, this Tribunal cannot entertain the same. It is further their case that the benefit of defence service was re-examined by the Govt. of India, Ministry of Finance and the clarification was issued

under the hands their Deputy Secretary, by which the Banks were allowed to give the benefit of any service for the purpose of , seniority and promotion to the incumbent who were recruited against the reserved posts, from the clerical and subordinate cadre. According to them the benefit of army service was given upto 2 years provided the workman had rendered three years service to the Bank. The benefit could be available only once during service career.

The further claim of the Management is that as per the circular 126 dated 14th Nov., 1987, the benefit could be available only at the time of promotion and nor for the purpose of officiating. They have claimed that the Management has complied with the circular in question. According to them the circular was not properly interpreted by the Branch Kapurthala and the benefit thereof was extended to the workman for the purpose of officiating which was wrong. It was because of that that the benefit was withdrawn. The Management has claimed that the workman is not entitled to any relief.

The workman has reiterated his case in the re-application and in his affidavit Exhibit W-1.

I have gone through the file and have also considered the submissions of the parties made orally and in writing.

There is no dispute between the parties that the benefit of army service was given to the workman in terms of office memo dated 13th August, 1988, which has been exhibited as W-2. As per this circular, it was directed by the Ministry of Finance, Department of Economic affairs (Bank Division) that Banks may allow, for the purpose of seniority for promotion, to their ex-servicemen recruited against reserved posts, from the Clerical and Subordinate Cadre. Weightage for the period of service rendered by them in the Armed Forces, was to be given in the ratio of 5:1 subject to maximum of two years only, after they render the service to the Bank for at least three years. It is admitted by the management that the benefit of this circular was given to the workman but under a wrong interpretation of the circular. According to them the benefit of army service to the maximum of two year's seniority could be given only at the time of promotion in service from clerical and subordinate cadre and not otherwise. The workman has challenged this interpretation and has relied upon another circular dated 14th May, 1996. By that circular the Ministry of Finance (Bank Division) issued the clarification with regard to their circular dated 13th June, 1986. In their circular dated 21st March, 1991, issued under no. 10/49/84 SCT(B), it is stated by Govt. of India that they have received representations from the ex-servicemen requesting to allow them the benefit and weightage of the army service also, for the purposes of appointments on special allowance carrying posts. According to them the benefit available to the ex-servicemen could be allowed, at the option of the workman, either at the time of appointment against the special allowance carrying post or at the time of promotion from subordinate staff or clerical cadre. This shows that till

the issuance of that circular, the benefit was available only at the time of promotion, from sub-staff and clerical cadre, and not otherwise. Thus this circular leaves no doubt that the benefit which was given to the workman during the period of August 1987 to August 1988 was not available to him. His claim is that the withdrawal of that benefit to the workman from onward August 1988, was unjustified and bad in law. In my opinion his claim is not valid and is rejected.

It is true that the Ministry of Finance issued another circular on 14th May, 1996, *vide* under No.FNF 202/172/95-SCT. According to this circular, which clarifies the intention of the appropriate Govt. as contained in the circular, dated 21st March, 1991. They have clarified that the intention of circular of the Ministry dated 21st March, 1991 was not to come in the way of those who avail of this benefit for the purpose of temporary appointment on special allowance carrying or officiating posts and afterwards were considered for regular promotion to the next higher grades from the post on which they were initially re-employed. They directed that in case the allowance carrying post is given to the re-employed ex-servicemen on permanent post, then the benefit of Army service will not be allowed to a ex-serviceman at the time of promotion in the Bank. From the readings of these circulars it emerges out that the benefit of army service was to be given to the workman only once in service carrier, after he has put in three year's of active service. Once the benefit of Army Service was granted, for posting on special allowance carrying posts on permanent basis, the same will not be withdrawn. But then if the same benefit will be allowed at the time of next promotion. Thus there is no merit in the submission of the workman that the Management had wrongly withdrawn the order by which the benefit of the army was given to him at the time of his posting on a special allowance carrying post.

I do not find any weight in the claim of the Management that since the workman had taken the benefit of army service at the time he applied for promotion to officers cadre in the year 1989 now he cannot ask for the benefit. It is submitted by them that had the workman not opted for getting the benefit of past army service he could not be eligible to appear in the promotion post held in the year 1989 and in the subsequent year. There is nothing on record to show that the workman was promoted on the basis of benefit of Army Service. But just applying for permission to appear in the test for promotion on the basis of past Army Service, it does not show that the benefit of Army Service was actually given to the workman. Since he was not promoted, as a result of test on the basis of past Army Service, he could claim the same benefits again. It is on record that the workman could not get promotion on the basis of his past Army Service, therefore, he could exercise his option in terms of circular dated 14th May, 1996 (Supra) so as to be considered for appointment on the allowance carrying posts or officiating posts. He could also claim the benefit of promotion in service if he otherwise fell in the category of eligible candidates for promotion without taking the benefit of past Army Service. The

Management could not stop him from getting that promotion.

There is weight in the submission of the Management that the benefit of circular dated 14th May, 1996 is prospective, therefore, the workman could not claim the benefit of the circular retrospectively. The very language of the circular is clear that this circular has clarified the circular dated 21st March, 1991, and the clarification reads that the workmen who were entitled to the benefit of Army Service in terms of circular dated 21st March, 1991, could exercise their option to get the benefit of past army service either for appointment to the allowance carrying posts or officiating posts or for regular promotion in service from the post on which he was initially re-employed. The only pre-condition was that once the promotion on the basis of past army service, was given, the workman was not entitled to posting on special allowance carrying posts. On the other hand if he got appointed on special allowance carrying post permanently, then he was not entitled to the benefit of past army service at the time of his promotion in the Bank. In view of the discussion made above the workman is not entitled to officiating allowance w.e.f 1st Sep., 1988 and the Management was justified in stopping payment of the allowance to the workman from that date. The workman is, therefore, entitled to no relief. The reference is answered in these terms. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4638.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 708/2K5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/358/1993-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4638.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 708/2K5) of the Central Government Industrial Tribunal-cum-Labour Court, No.-2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab and Sind Bank and their workman, which was received by the Central Government on 8-11-2006.

[No.L-12012/358/1993-IR(B. II)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Presiding Officer : Shri Kuldip Singh

CASE No. I.D. No. 708/2K5

Registered on 25-8-2005

Date of Decision 19-9-2006.

Ashok Kumar S/o Shri Kulwant Rai near State Bank of
Patiala, Markot, District Faridkot

....Petitioner

Versus

The Area Manager, Punjab and Sind Bank, Faridkot

....Respondent

APPEARANCE

For the Workman : Mr. I. P. Sidhu & Ms. Harjit Kaur,
Advocate

For the Management : Mr. J. S. Sathi, AR.

AWARD

The workman continues to be absent. Management appears through Counsel. The record of the file shows that the workman made defaults in appearance in the case a number of times. He has never appeared after the case was transferred to this Tribunal. Notices to the workman were sent more than once and the R/C carrying the notices have been received back unserved with the report that the workman was not available on the address given. In this file there is no other address of the workman available and on this address only notices were served upon him under R/C thrice and the acknowledgement thereof are part of the record. This all shows that the workman is habitual not to appear in this Tribunal. It further shows his lack of interest in prosecuting this case.

The Govt. of India referred the dispute between the workman and the Management for the adjudication of this Tribunal which reads as under :

"Whether the claim of Shri Ashok Kumar, Ex-Peon that the Management of Punjab & Sind Bank, Faridkot have terminated his services w.e.f. June, 1984 in violation of the provisions of Section-25-G and Section 25-H of the Industrial Disputes Act, 1947 and that the Management is not justified in not giving him one time opportunity for employment under the scheme notified by them is correct? If so, what relief is the said workman entitled to?"

The workman filed his statement of claim and the Management filed the reply thereto. The workman filed reapplication and his affidavit whereas the Management filed the affidavit of Shri C. S. Sidhu, Chief Manager in support of their respective claims. The case was being listed for the evidence of the workman when the file was transferred to this Tribunal. As stated earlier this Tribunal has made every effort to summon the workman so as to follow his claim, but he has not bothered to come.

On record the only evidence available is that of affidavits of the workmen and that of the witness of the Management, but both the affidavits have not been proved under law. Therefore no reliance can be placed thereon. I do not find any evidence to show that the Management had violated the provisions of Section 25-G & H, when they terminated the services of the workman in June, 1984 since they did not provide employment to the workman after his disengagement. They retained his juniors whereas terminated the service of the workman, who was senior to them. They even violated the scheme notified by the Management. Since there is no evidence on record, therefore, it is held that the workman is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ. 4639.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जवाहरलाल नेहरू पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-1, मुम्बई के पंचाट (संदर्भ संख्या 46/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-31025/4/2004-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4639.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2004) of the Central Government Industrial Tribunal/Labour Court No.-1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jawaharlal Nehru Port Trust and their workmen, which was received by the Central Government on 8-11-2006.

[No. L-31025/4/2004-IR(B: II)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.-I,
MUMBAI****PRESENT****Justice Ghanshyam Dass, Presiding Officer****REFERENCE NO. CGIT 46 OF 2004****PARTIES****Employers in relation to the management of
Jawaharlal Nehru Port Trust****And****Their workmen****APPEARANCE****For the Management :** Mr. Saptarshi Ghosh, Adv.**For Sulabh International :** Shri Nabar, Adv.**For the Union :** Shri Vijay S. Gharat, Adv.**State** Maharashtra**Mumbai, dated the 17th day of October, 2006****AWARD**

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order No. L-31025/4/2004-IR(B-II) dated 8-6-2004. The terms of reference given in the schedule are as follows :

"Whether the demand of Nhava Shea Bandar Kamgar Sangatana (Antargat) 64 Shopping Centre, JNPT, Township, JNPT, Raigad for absorption of workers (as per list annexed) engaged by the management of Jawaharlal Nehru Port trust, Sheva through Contractors, for general conservancy in the vicinity of JNPT Port area and residential township and surrounding areas of JNPT from the date of their initial engagement is legal and justified? If not, what relief are the workmen concerned entitled to?"

2. The matter came up for hearing today, i.e. 17-10-2006. Mr. Ganesh A. Gharat, President of the Union has moved an application that the Settlement has been arrived at with the management of J.N.P.T and hence, the reference may be disposed of.

3. In this circumstance, the reference does not survive. It is accordingly dismissed in view of the Settlement in between the parties.

4. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4640.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जवाहरलाल नेहरू पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-1, मुम्बई के पंचाट (संदर्भ संख्या 49/2004)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-31025/3/2004-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4640.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 49/2004) of the Central Government Industrial Tribunal/Labour Court, No.-1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jawaharlal Nehru Port Trust and their workmen, which was received by the Central Government on 8-11-2006.

[No.L-31025/3/2004-IR(B. II)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.-I,
MUMBAI****PRESENT****JUSTICE GHANSHYAM DASS, Presiding Officer****Reference No. CGIT 49 of 2004****PARTIES****Employers in relation to the management of
Jawaharlal Nehru Port Trust****And****Their workmen****APPEARANCES****For the Management :** Mr. L.D. Souza,**For the union :** Shri V.S. Gharat, Adv.**State :** Maharashtra**Mumbai, dated the 20th day of October, 2006****AWARD**

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order No. L-31025/3/2004-IR(B-II) dated 8-6-2004. The terms of reference given in the schedule are as follows :

"Whether the demand of Nhava Shea Bandar Kamgar Sangatana (Antargat) 64 Shopping Centre, JNPT, Township, JNPT, Raigad for absorption of 16 workers (as per list annexed) engaged by the management of Jawaharlal Nehru Port Trust, Sheva through Contractors, for supply of water in the vicinity of JNPT Port area and residential township and surrounding areas of JNPT from the date of their initial engagement is legal and justified? If not, what relief are the workmen concerned entitled to?"

2. The matter came up for hearing today, i.e. 20-10-2006. Mr. Ganesh A. Gharat, President of the Union has moved an application that the Settlement has been arrived at with the management of J.N.P.T and hence, the reference may be disposed of.

3. In this circumstance, the reference does not survive. It is accordingly dismissed in view of the Settlement in between the parties.

4. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4641.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इन्सोरेन्स कम्पनी लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 101/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-17012/66/97-आईआर (बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4641.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/98) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Insurance Co. Ltd. and their workman, which was received by the Central Government on 8-11-2006.

[No. L-17012/66/97-IR(B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SARVODAYA
NAGAR, KANPUR, U. P.**

Industrial Dispute No. 101 of 98

In the matter of dispute between

Sri Indresh Kumar

S/o Sh. Ram Awadh

C/o Riyaz Ahmad & Chandra Shekhar Srivastava
8 Mahatma Gandhi Marg
Allahabad, U. P.

And

The Senior Divisional Manager,
National Insurance Co. Ltd.
Divisional Office
Bank Road, Gorakhpur U. P.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide notification No. L-17012/66/97-IR (B-II) dated, 29-6-98, has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of National Insurance Company in terminating the services of Sh. Indresh Kumar w.e.f. 1-2-93 is justified or not and whether he is entitled for reinstatement with back wages and other consequential benefits? If not, what relief is he entitled for?”

2. The in brief as set up by the workman in his claim statement is that he was engaged as temporary peon by the opposite party on daily wages on 4-1-91. The workman was required by the opposite party to perform all the duties assigned to a peon for whole working day but he was paid Rs. 20 per day instead of full salary by the opposite party which amounts to an unfair labour practice as defined under the provisions of Industrial Disputes Act, 1947. It has been alleged that since the workman has completed more than 240 days of continuous work, he made a request before the authorities of the opposite party to regularise his services which annoyed them as a result of which the services of the workman were terminated by the opposite party w. e. f. 1-10-91 without assigning any reasons, without making payment of retrenchment compensation, notice or notice pay in lieu of notice. Thus the termination is in breach of provisions of Industrial Disputes Act, 1947. It is also pleaded by the workman that in the month of November 1991, divisional Office of opposite party made request to the Local Employment Exchange, Gorakhpur, for sending the names of eligible candidates for empaneling them in the select list for appointing them as temporary employee under subordinate cadre and the name of the workman was also sent to the opposite party alongwith other candidates by the Local Employment Exchange, Gorakhpur. The workman after being declared successful in the interview was again offered the post of peon by the opposite party and the workman as such joined the post of peon under the opposite party on 1-2-92. It has further been pleaded by the workman that during second spell of his employment he was paid regular salary of a peon for whole month except Saturday Sunday and other holiday. This act on the part of opposite party virtually amounts to unfair labour practice as the workman was required to discharged the entire duties as has been assigned to a regular and permanent peon of the opposite party. Yet again the opposite party dispensed with the services of the applicant w. e. f. 1-2-93 upon his request to pay the salary of Sundays Saturdays and other

holidays and to absorb the workman in permanent employment of the opposite party. The workman during the period 1-2-92 to 29-1-92 excluding Saturday and Sunday on 30-1-93 and 31-1-93 had completed more than 240 days of continuous service under the opposite party still the workman had not been paid any notice, notice pay or retrenchment compensation by the opposite party which has rendered the termination of the services of the workman as illegal and ab initio void. Therefore, the workman is entitled to be reinstated in the services of the opposite party National Insurance Company Limited w. e. f. 1-2-93 with entire arrears of back wages, seniority and with all consequential benefits attached to the post.

3. The claim of the workman has been contested by the opposite party National Insurance Company Limited, Gorakhpur, by filing its reply against the claim of the workman inter alia on the grounds and admitting the fact that the workman was engaged by the opposite party as a daily wagger to fetch water from down stairs in Divisional Office and since the applicant was engaged by Sr. Divisional Manager who has absolutely no right to appoint or engage any person as sub staff or even to appoint a cash labour, therefore, the engagement of the applicant itself is illegal ab initio and he has no claim either reinstatement or regularisation in any manner. The applicant cannot claim himself to be a workman as defined under sec.2(s) of I.D. Act. It has also been denied that the applicant was ever engaged as regular employee after going through all the formalities and norms fixed by the Company for the appointment of regular employee. The applicant was a daily wagger and it was made clear to him that he would be getting Rs. 20 per day and this amount varied from time to time, from 4-1-91 to 15-3-91. It has been denied by the opposite party that the applicant had ever completed 240 days in any calendar year. As a matter of fact the Senior Divisional Manager was not competent to appoint any sub staff or any casual labour in pursuance of Company's circular No. MPL/HO/19/88 dated 30-3-88 vide which fresh intake in the employment of the company has been banned. It has further been alleged by the opposite party that the said circular has been made ineffective by company's another circular dated 30-3-88. It has further been pleaded and admitted by the opposite party that the applicant workman was again offered the post of peon for 80 days consequent upon his name being recommended from the Local Employment Exchange and after his selection through selection committee and therefore he was not entitled for regular pay admissible to regularly appointed peons of company. The opposite party has further admitted the working of the applicant under them as peon during the period 1-2-91 to January 93, and it has been pleaded by the opposite party that during the said period the workman instead of completing 240 days of continuous service had simply worked for only 234 days continuously. Lastly it has been prayed that the workman is not entitled to any relief as claimed by him.

4. Workman has also filed rejoinder in which nothing new has been pleaded except reiteration of the facts already pleaded by him in his statement of claim.

5. Both contesting parties have filed documentary evidence in support of their claims and counter claims. Whereas workman has also lead oral evidence to support his claim as w. w. l, management failed to examine his witness before the tribunal as a result which the management was debarred from adducing any evidence vide order dated 31-3-2004 and the case was ordered to be listed on 11-5-04 on which the arguments of the parties were heard in detail by the Tribunal.

6. Tribunal after having heard arguments advanced by both the contesting parties have also gone carefully through the documents available on records of the case.

7. Firstly it will be seen if the workman has completed 240 days of continuous service under the management of National Insurance Company Limited during the period 1-2-92 to 1-2-93 or not. On this there is uncontroverted evidence of the workman. The workman in his examination in chief on oath before the tribunal has stated that during the period he had worked under the management continuously and when he made demand before the management for his regularisation in the service his services were dispensed with by the opposite party and he was neither paid any notice, notice pay or retrenchment compensation by the opposite party. The workman has also filed documents per list dated 18-5-2001 which ordered to be taken on record by the tribunal after considering the arguments of the contesting parties for disposing of the application by means of which workman sought permission of the tribunal that the records be taken on record of the case. Document No. 3 is a statement showing number of days of the workman prepared by the opposite party which is indicative of the fact that the workman during the period 1992-1993 in all had worked for 322 days continuously. Therefore the evidence of the workman stands corroborated by the document No. 2 which had been prepared by the opposite party.

8. Document No. 4 of list of document dated 18-5-2001 is circular No. LRO: PEPS: RM:87 dated 23-3-87 wherein it has been clarified by the opposite party as to how 240 days be computed. It has been clarified that if any workman works continuously for 6 days and the cycle goes on, the period of employment be treated as continuous service. Even if the employment is on no work no pay basis these intervening Sundays and Holidays are to be counted for the purposes of calculating 240 days of working or more. From this point of view tribunal do not find any substance in the arguments advanced by the representative for the opposite party that the workman in the aforesaid period had not completed two hundred and forty days of continuous work. Moreover on this point workman has not been cross-

examined by the representative for the opposite party and the opposite party has also not adduced any evidence oral or documentary to prove that the workman during the period 1992-1993 had not completed 240 days or more. Thus the evidence of the workman goes un rebutted and under these circumstances tribunal holds that the workman had completed 322 days of continuous service during the period of his employment under the opposite party i.e. January 92 to January 93.

9. Having concluded that the workman Indresh Kumar had completed 322 days of continuous service under the management during the period January 92 to January 93 it will be examined as to whether the termination of the services of the workman is in breach of provisions of Section 25F of Industrial disputes Act, 1947 or not. The workman in his evidence has categorically admitted the fact that he was not paid notice, notice pay in lieu of notice and retrenchment compensation, at the time of termination of his services. Management has not cross examined the workman on this point, therefore, the evidence of the workman further goes un rebutted on this point. As such the tribunal is of the firm opinion that the termination of services of the workman can well be covered within the ambit of term 'retrenchment' as defined under Section 2(oo) of Industrial Disputes Act, 1947. Since admittedly workman has not been paid any retrenchment compensation at the time of dispensation of his services by the opposite party, termination of services of the workman is thus in breach of provisions of Section 25-F of Industrial Disputes Act, 1947, as such is bad in law.

10. From the above discussions of facts it is held that the action of the management of National Insurance Company Limited in terminating the services of Sh. Indresh Kumar w.e.f. 1-2-93 is neither legal nor justified. Consequently workman is entitled for reinstatement with full back wages and other consequential benefit together with seniority. Accordingly, opposite party is directed to reinstate the workman at the post of peon within a period of 30 days from the date of publication of the award.

11. Before parting it may be made clear that the tribunal do not find much substance in the arguments of the opposite party that the appointment of the workman is not in accordance with recruitment rules in the absence of evidence in support thereof by the opposite party. It has already come in the evidence of the workman that he was appointed after holding interview by duly constituted selection committee after inviting the names of eligible candidates from Local Employment Exchange, Gorakhpur. Further management has also not lead any evidence that some other procedure except above is provided for giving regular appointments to the peons. On this ground the appointment of the workman on temporary basis is held to be valid and legal and in accordance with the recruitment rules prescribed by the opposite party. Reference is

answered accordingly in favour of the workman and against the opposite party.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4642.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम-न्यायालय सं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 339/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/439/99-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4642.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 339/2005) of the Central Government Industrial Tribunal/Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/439/99-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I. D. No. 339/2005

Registered on 7-3-2000

Date of Decision 19-9-2006

Jaswinder Singh C/o Shri N. K. JEET, President,
Telecom. Labour Union, Mohalla Hari Nagar, Lal Singh
Basti Road, Bhatinda (Punjab)

... Petitioner.

Versus

The General Manager, Telecom. Bhatinda (Punjab)

... Respondent

APPEARANCE

| | |
|----------------------|--|
| For the Workman : | Mr. N. K. JEET, Authorised Representative |
| For the Management : | Mr. G. C. Babbar, Advocate. |

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this

Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 371 dated 18th July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide notification No.L-40012/439/99-IR(DU) dated 16th Feb., 2000 referred the dispute for the adjudication of this Tribunal which is in the following words :

"Whether the action of the Management of General Manager, Telecom, Ferozepur in terminating the services of Shri Jaswinder Singh S/o Shri Darshan Singh is legal and Justified? If not, to what relief the workman is entitled and from which date?"

After the reference was received notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements and other documents. The workman filed a rejoinder. The case was being listed for the affidavit of the parties but as stated earlier the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a workman in the office of Telephone Exchange, Lambi on 27th May, 1997 on a salary of Rs. 2138/- and he served the Management upto 5th March, 1999 when his services were terminated without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Sections 25-G & H. By their Written Statement the Management had denied all the claims made by the workman. According to them the workman was neither engaged nor his services were terminated by them. According to them the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 27th May, 1997 and his services were terminated from 5th March, 1999, without following the provisions of Industrial Disputes Act. Since the workman has failed to substantiate his claim as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management has engaged the workman Jaswinder Singh and they terminated his service illegally. The workman, therefore not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4643.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 337/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/446/99-आईआर (डीयू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4643.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 337/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No.L-40012/446/99-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II
CHANDIGAH**

Presiding Officer : Shri Kuldip Singh

Case I. D. No. 337/2005,

Registered on 16-8-2005

Date of Decision : 19-9-2006.

**Paramjit Singh C/o Shri Kuldip Singh C/o Shri N. K. Jeet.
President, Telecom Labour Union, Mohalla Hari Nagar,
Lal Singh Basti Road, Bhatinda (Punjab)**

....Petitioner

Versus

The General Manager, Telecom, Bhatinda (Punjab)

.... Respondent

APPEARANCE

**For the Workman ; Mr. N. K. JEET,
AR**

**For the Management Mr. G. C. Babbar,
Advocate.**

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued

to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No.374 dated 18th July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide notification No.L-40012/446/99-IR(DU) dated 17th February, 2000 referred the dispute for the adjudication to this Tribunal which is in the following words:

"Whether the action of the Management of General Manager, Telecom, Ferozepur in terminating the service of Shri Paramjit Singh S/o Shri Kuldip Singh is legal and justified? If not, to what relief the workman is entitled and from which date?"

After the reference was received notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements and other documents on record. The Management filed the affidavit of their witness. The workman filed a rejoinder. The case was being listed for the affidavit of the workman but as stated earlier the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a Computer Operator in the office of the SDOP Cantt., Ferozepur on 1st September, 1995, on a salary of Rs. 2138/- and he served the Management upto 14th May, 1999, on which day his services were terminated without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Sections 25-G & H. By their Written Statement the Management has denied all the claims made by the workman. According to them the workman was neither engaged nor his services were terminated by them, and that the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 1st September, 1995, and his services were terminated by them from 14th May, 1999, without following the provisions of Industrial Disputes Act 1947. Since the workman has failed to substantiate his claim as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing on record to show that the Management has engaged the workman Paramjit Singh and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4644.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट ऑफ पोस्ट आफिसेस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 677/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/163/2001-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4644.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 677/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Senior Superintendent of Post Offices and their workman which was received by the Central Government on 8-11-2006.

[No.L-40012/163/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR
COURT-II, CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case I.D.No.677/2005,

Registered on 25-8-2005

Date of Decision : 14-9-2006.

Naib Singh S/o Shri Gurmukh Singh R/o Village Nathu
Majra, post Office Naru, Via Kauli Tehsil, Rajpura.

... Petitioner

Versus

The Senior Superintendent of Post Offices, Patiala.

... Respondent

APPEARANCES

For the Workman : Mr. Pritam Singh Baath,
Advocate

For the Management : Mr. J. S. Rana,
Advocate.

AWARD

Vide their notification No.L-40012/163/2001-IR(DU) dated 9th Oct., 2001. The Government of India referred the following dispute for the adjudication to this Tribunal:

"Whether Sh. Naib Singh, EDSV is a workman or not, if so, the action of the Management of Senior Superintendent of Post Offices, Patiala in terminating

the services of Shri Naib Singh S/o Shri Gurmukh Singh is just and legal? If not to what relief the workman is entitled to and from which date?"

On the receipt of the reference, notices were issued to the parties who appeared through their Counsel. The workman filed the Claim Petition to which the Management filed the reply. The workman filed his affidavit in support of his claim whereas the Management filed the affidavit of Mr. B.D. Garg the Senior Supdt. of Post Offices Patiala. Both workman and Shri B.D Garg appeared as witness and answered the queries made in the cross examination by the opposite counsel.

The claim of the workman is that he was appointed as Extra Departmental Stamp Vendor(EDSV) in June 1998 and he had joined the duties on 20th June, 1998; that he continued serving the department, without any break, till 27th may, 1999, on which day, he was told by the Management that his services were no more required. Thus the Management terminated his services arbitrarily and without giving him any notice or holding any inquiry against him; that the workman had performed duties for more than 240 days for the Management 12 days preceding the date of his termination; that the Management appointed one Ravinder Kaur in place of the workman and thereby they further violated the provisions of Section 25-G & H. He further stated that he had approached the Central Administrative Tribunal for relief but they dismissed the petition for want of jurisdiction.

The Management has opposed the claim of the workman stating that the same is not maintainable since the workman himself had left the job and retained cash in balance postage stamps with him. It was in that situation the Management had engaged one Baljinder Singh to perform the job of Extra Departmental Stamp Vendor in the Post Office, Patiala; that the department had issued the process of regular recruitment in which Smt. Harjinder Kaur was appointed and on whose not joining the post, the next meritorious candidate was appointed; that the engagement of the workman was irregular and provisional. For that reason also he has no right to claim, therefore, the petition filed by him is not maintainable.

With regard to the averments made in the petition it is submitted by the Management that the workman had himself left the job, therefore, he was not entitled for any notice, before the termination of his services as neither the services of the workman were terminated by the Management nor he had the right to hold the post. It was a case of cession of service and not retrenchment as defined by Punjab & Haryana High Court in case of Brij Bhushan V/s Industrial Tribunal-cum-Labour-Court and Others reported as 1998(3) A TJ 322. They have requested for dismissal for the claim of the workman.

From the pleadings of the parties, the admitted facts which emerge are that the workman was engaged by the

Management to work as EDSV and he performed the duties from 20th June, 1998 upto 27th May, 1999. The dispute between the parties is regarding the mode of disengagement of the workman. It is the claim of the workman that the Management had told him on 27th May, 1999 that his services are no more required. In his statement he further stated that he had been engaged as stop gap arrangement. He further admitted that neither his name was sponsored by the Employment Exchange nor any interview was held before his appointment. It is also admitted by him that there was no advertisement of post in the newspaper before his appointment. From his statement it is clear that the appointment of the workman was not in accordance with the procedure required to be followed for making regular appointments. His appointment was a direct appointment and apparently in violation of the provisions of Article 14 & 16 of the Indian Constitution.

The case of the Management is, that the appointment of the workman was a stop gap arrangement since the incumbent working on that post had been promoted and that the Management had issued the process of making recruitment. As a result thereof a regular appointee was approved, who did not join the duty and in her place the next meritorious candidate was appointed. Thus it shows that on the anticipating joining of a regularly appointed candidate the workman left the job and it was not the case of his disengagement by the Management. The Management further claimed that the workman had left the job and even retained the cash and the balance stamps of the department, but they have not shown as to what action they had taken against the workman in that regard so as to justify their claim of retention of stamps and cash by the workman. On the other hand the workman has made a vague allegation that his services were terminated by the Management. He did not state as to who had asked the workman that his services are no more required. The parties have not led clear and cogent evidence to support or opposed the case of each other.

The only claim of the workman is that the Management did not observe the mandate of law as contained in Sec-25-F of the Act as neither they gave him a notice of termination nor paid him the salary for the notice period. He was also not paid retrenchment compensation. They also did not hold any inquiry nor he was charge sheeted. Thus his termination was bad in law. The Management by their conduct has admitted that the workman was not given any notice nor was paid salary for the notice period or the retrenchment compensation. Their case is that the recruitment of the workman was a stop gap arrangement and was not a regular appointment made after observing the recruitment rules. Thus the workman had not claim on the post. Their further claim is that the workman himself had left the job rather he retained the cash and the postal stamps and never returned to duty. It was in those circumstances that the Management had to

make alternate arrangement. Their alternative plea is that after the regular process of recruitment, the incumbent had joined on the post and on her joining there remained no requirement of the workman. The question of his retention in service did not arise. But the workman since himself had left the job. There came no occasion for the Management to tell the workman that his services are no more required.

As stated above the workman, in his own statement admitted, that his recruitment was not done either through employment exchange or by holding interview after the advertisement of the posts. Thus he admitted that his appointment was irregular, therefore, he could not make a claim on the post on which a regular employee was posted. The law is now settled by Hon'ble Supreme Court by a constitutional bench of five judges in the case of Secretary, State of Karnataka V/s Uma Devi & Others Civil Appeals No.3595-3612 of 1999 decided on 10-4-2006 an appointee whose appointment was a back door entry without following the procedure as established by law cannot lay a claim on the post he held, since such an appointment is in violation of the provisions of Article 14 & 16 of the Indian Constitution. The law in joins upon the competent authority to follow the procedure and make the appointment after holding proper competition among the eligible candidates. In the present case the engagement of the workman was without following the procedure laid down by law. He was neither recommend for the Employment Exchange nor the post for which he was engaged, was notified nor any competition for that was held. So, the workman cannot lay a claim on that post especially when an incumbent posted on that post was recruited by a regular process under rules. In view of this the claim of the workman is not maintainable.

After due consideration of the pleadings of the parties, the evidence produced by them and the submissions made, orally as well as in writing, I am of the opinion that the workman has failed to show that the Management had terminated his services illegally. Thus his termination is bad in law. The circumstantial evidence is to this effect that on the joining of a regularly appointed individual the workman had himself left the job and did not report back to duty right from 27th May, 1999. He is, therefore, entitled to no relief. The award is passed against him. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4645.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 365761/06-25

744/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/66/92-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4645.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 744/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of B. B. M. B. and their workman, which was received by the Central Government on 8-11-2006.

[No.L-42012/66/92-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOURCOURT-II, CHANDIGARH

PRESIDING OFFICER : Shri Kuldip Singh

Case No. I.D. No. 744/2K5

Registered on 2-9-2005.

Date of Decision 16-9-2006.

Shri Daya Singh S/o Shri Harnama C/o Shri R. K. Singh,
President Nangal, BBMB, Nangal Township (Punjab)

Petitioner

Versus

The Chief Engineer, Bhakra Dam, Nangal Township

Respondent

APPEARANCE

For the Workman : Mr. R. P. Rana
Advocate.

For the Management : Mr. R. C. Attri.

AWARD

The following reference was received by the Government Of India vide their notification No.L-42012/66/92 dated 9th September, 1993:

"Whether the action of the Management of Chief Engineer Bhakra Beas Management Board, Nangal Township, District Ropar in terminating the services of Shri Daya Singh, S/o Shri Harnama, w.c.f 31-12-1991 is legal and justified? If not, what relief the concerned workman is entitled to and from what relief?"

On getting the notice the parties appeared through their representatives. The workman filed the statement of claim to which the Management filed the Written Statement. The workman filed rejoinder and his affidavit, whereas the

Management filed the affidavit of Shri Ranjan Sharma, SDO. They also placed on record photo copies of number of letters, statements showing the names of the workmen engaged and the number of days they served for the Management. Both the workman and the witness of the Management came in the witness box and proved the affidavits tendered by them.

The claim of the workman is that he was appointed as skilled Mazdoor on daily wages w.e.f 1st September, 1987 and he continuously worked for the Management till 31st December, 1991. His services were terminated by the Management on 31st Dec., 1991 saying that the work for which he was engaged has been completed; that the Management did not maintain the seniority list of the workers of his category before the retrenchment of his services. They retained the juniors of the workman in service and disengaged him. Thus they violated the provisions of Sec.25-G. They also did not give him notice before the termination of his services nor they paid him the retrenchment compensation. He was also not recalled for re-employment and thus he was discriminated in providing the re-employment and thereby the Management practiced unfair labour practice by adopting the method of pick and choose; that despite his best efforts he has not been able to procure his employment. He is without employment since the day of his termination from services.

The Management has opposed the claim of the workman. It is their case that the Management had maintained the seniority of the casual labourers in accordance with the directions issued by the Hon'ble High Court of H.P in the case of Ram Piari & Others V/s. BBMB being CWP 297 of 1998 and in other case CWP 274 of 1998, which got the seal of the Supreme Court as well. According to those instructions the seniority of Casual Labourers was to be maintained at the Divisional Level and the retrenched workers were to be given re-employment as and when the need arose, strictly according to the seniority.

On merit the case of the Management is that the claim of the workman is bad for laches; that there did not exist any dispute between the parties. Admitting that the workman had served the Management from Nov., 1987 to July 1989 but intermittently and since the job to be done by the workman got complete, therefore, a number of employees including workman were retrenched. The workers were given one month's notice before the termination of his services. He was offered Rs.285/- as retrenchment compensation but the workman refused to accept. Instead he approached the Punjab and Haryana High Court by a writ and got the order of interim stay and on the strength of that he continued serving the Management upto 31 st December, 1991.

The case of the Management further is that the management had prepared the seniority list and that no junior of the workman was retained in service, when his services were terminated. They again sent the amount of compensation, by a cheque, to the workman which too

was refused by the workman. The Management has admitted that the workman stands at Serial No.67 in the seniority list. They have not asked for any relief.

The workman and the witness of the Management proved their affidavits. In his statement before this Court the workman denied the knowledge that he was given a notice of completion of the job against which he was engaged in the year 1989. But in the same breath he admitted that the notice was repeated to him which prove that the notice of termination was given to the workman earlier also which was repeated in the year 1991. He claimed that he was not paid the retrenchment compensation nor it was offered to him. Admitting that he had filed a writ petition in the High Court, against the termination of his services and he was given interim stay, but that was vacated in the year 1991. He named three of his juniors Hari Om, Ajay Kumar and Pawan Kumar as the person who were retained in service while his services were terminated. He stated that he has three children but he is not doing any job nor he knows his age. Ranjan Kumar Sharma who appeared as a witness proved that the workman had served the Management from 1st July, 1988 to 31st Dec., 1991; that the Management had given notice to the workman before the termination of his services; that the workman had served the Management for more than 240 days in each year. He, however, could not say whether the Management had prepared the seniority list of category of the workman before the termination of his services. He also could not say whether the workman had been offered the job of unskilled labour. He also could not say that the retrenchment compensation was in the amount of RS.285/- but admitted that the salary of the workman should have been more. He could also not say that one month's salary was paid to the workman at the time he was removed from the service or that whether at the time of retrenchment compensation was given to the workman or not.

After going through the pleadings of the parties I find that the claim of the workman is that he had served the Management continuously from 1st Nov., 1987 to 31st Dec., 1991 and his services were terminated on 31st Dec., 1991, without following the provisions of Section 25-F of the Industrial Dispute Act 1947, hereinafter to be referred as "ACT". The Management through their witness Ranjan Kumar Sharma, admitted the claim of the workman to this extent that the workman had served the Management from 1st July, 1988 to 31st Dec., 1991. The Management, however, has disputed the claim of the workman that the workman had served the Management from 1st November, 1987. The relevant question for the purpose of section 25-F of the Act is whether the workman had served the Management for 240 days 12 months preceding the date of his retrenchment, a fact, that has been admitted by the Management. Thus the workman has a right to claim the benefit of Sec-25-F of the Act.

Now it is to be seen whether the Management followed the provisions of Sec-25-F of the Act or not. The workman in his statement could not say whether any notice

was issued to him in the year 1989; that the job for which he was engaged had been completed. But in his statement he admitted that the notice to him was repeated in 1991 which shows that he was given a notice even earlier to 1991. This supports the claim of the Management that the workman was given notice in 1989. On record I also find a copy of letter No.6969-71/9E dated 30-6-1989, issued by the Executive Engineer, Bhakra Mechanical Division, Nangal. By this notice it was told to the workman that due to reduction of work of Bhakra Mechanical Division, Nangal his services will no longer be required w.e.f 31st July, 1989. The workman has denied the service of this notice on him. Then which was the notice repeated on him in 1991 as admitted by him. There is another notice on record bearing No. 12374-80/9E/DL dated 28-11-1991. This was a notice to the workman as well as to one Jasbir Singh, who according to the Management stood at Serial No.67 and 47 of the seniority list. The copies of these letters were also sent to the ALC, Chandigarh, the RLC Chandigarh and others. Against this there is only simple lack of knowledge shown by the workman whereas the letter was written in the normal official working and carries the presumption that the official acts were done in the manner they are shown to have been done. In such a situation it was the duty of the workman to have rebutted the claim of the Management that the notice of retrenchment was not served upon him nor it was ever issued. His making of a claim that no notice was served upon him is belied by him only in oral statement when he admitted that the notice was repeated on him. Therefore his denial of service of notice is without any basis. He could have summoned any of the witnesses to whom the copies of the said notice were sent to show that no notice was issued to them also. The claim of the workman in this regard is, therefore, rejected.

The workman has next contended that the Management retained his juniors whereas they terminated his services. He named Hari Om, Ajay Kumar, Pawan Kumar, as his juniors. None of these three persons were examined as a witness nor there has been brought on record any evidence to show that they were juniors to the workman; and that they were retained in service. The witness of the Management Ranjan Kumar Sharma was there in the witness box, but the workman did not put any question to him to say whether the named persons were employees with the Management and they were juniors to the workman. The workman has thus further failed to show that the named persons were employed by the Management although they were juniors to the workman on the day the services of the workman were terminated. He further failed to give the correct particulars of the persons so as to verify their place in the seniority list. He could also not say that Hari Om standing at serial No.88 of the seniority list, a copy of which has been placed on record, was the same Hari Om and Pawan Kumar standing at Serial No.33 was or was not the same workman who according to him was junior to him. In the absence of any clear evidence it cannot be said that there were workers with the name given by the

workman who were juniors to the workman who were retained while the services of the workman were terminated. Thus the claim of the workman in this regard is also rejected.

The representative of the workman has next contended that the Management violated the provision of Section-25-F of the Act since they were supposed to ensure the payment of retrenchment compensation to the workman before terminating his services. When countered with notice of the Management to workman to collect his retrenchment compensation he submitted that it was no way to give the compensation. The Management was required to ensure the payment of retrenchment compensation and a proper compensation. Why the workman should have gone to the office of the Management to collect the compensation. Moreover the compensation offered was not proper compensation as his salary could not be the same in 1989 and then 1991-92. I do not agree with him on this count for the reasons that he was to be paid compensation for the period he had served the Management and not for the period during which he served with Management under the orders of stay granted by the High Court which was later on vacated and which put the workman to the place where from he had served the Management under their orders. He has not shown that his salary in 1989, at the time of his disengagement, was more than Rs. 285/-per month. Moreover if he was getting his wages from the office of Management what was the difficulty with him to collect his retrenchment compensation from the same office.

The workman has not shown as to what other unfair labour practice the Management had practiced in his case. After considering the facts and circumstances of the case I am of the opinion that the workman has failed to show, by any evidence that the Management had violated the provisions of law, rules and principles of natural justice by terminating his services on 31 st December, 1991. He is, therefore, entitled to no relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4646.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल इन्स्टिट्यूट ऑफ रूरल इलेक्ट्रिफिकेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-16/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-42025/4/2006-आईआर (डीयू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4646.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LCID

16/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Institute of Rural Electrification and their workman, which was received by the Central Government on 08-11-2006.

[No. L-42025/4/2006-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

Shri T Ramachandra Reddy Presiding Officer

Dated the 31st day of October, 2006

L.C.I.D. No. 16/2006

BETWEEN

Sri N. Narasimha,
S/o Babaiah,

R/o Plot No. 106, Siddeswar Air Port
Colony, Shamshabad, Ranga Reddy District.

....Petitioner

And

The Director,
Central Institute of Rural Electrification,
N.P.A. Post, Shivarampally,
Hyderabad District.

....Respondent

APPEARANCES

For the Petitioner : M/s. K. Ravinder Goud &
Y. Ranjeeth Reddy,
Advocates

For the Respondent : Sri R.K. Suri, Advocate

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 16/2006 and notices were issued to the parties.

2. Petitioner called absent today. Respondent reported that the Petitioner is not taking interest in prosecuting the case and absenting himself on each and every date of hearing and further requested to pass Nil Award.

3. In view of the circumstances that Petitioner is absenting since long time inspite of giving several adjournments for producing his evidence, 'Nil' Award is passed dismissing the petition. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 31st day of October, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for
the Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4647.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1 मुंबई के पंचाट (संदर्भ संख्या सी जी आई टी-09 ऑफ 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/181/2002-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4647.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT 09 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Mumbai as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 08-11-2006.

[No. L-40012/181/2002-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT

Justice Ghanshyam Dass, Presiding Officer

Reference No. CGIT-09 of 2003

PARTIES

Employers in relation to the management of
BSNL Microwave Maintenance

And

Their Workmen

APPEARANCES

For the Management : Mrs. V. Masurkar, Adv.

For the Workman : Mr. B. S. Dhuri, Adv.

Workman present in person

State : Maharashtra

Mumbai dated the 18th day of October 2006.

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub Section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order No. L-40012/181/2002-IR (DU) dated 28-1-2003. The terms of reference given in the schedule are as follows:

"Whether the action of the management of BSNL, Mumbai in terminating the services of Smt. Mani Lalji Padaya w. e. f. 1-10-99 is justified? If not what relief the workman Smt. Mani Lalji Padaya is entitled to?"

2. Smt. Mani Lalji Padaya (hereinafter referred to as the workman) filed the Statement of claim dt. 28-3-2003. It is alleged that she worked as Part time sweeper in the office of Assistant Engineer, Optical Fibre Cable Maintenance (Deptt. Of Telecom), Fountain Telecom Building No.2, Fort, Mumbai No.400020 since Feb 1991 to May 1998 and subsequently from June 1998 onwards as Full Time Sweeper. She was paid double the wages of the wages paid earlier prior to June 1998. She has given out that she worked for 162 days, 185 days, 173 days, 147 days, 158 days, 301 days, 302 days, 329 days and 191 days for the year 1991-1999 respectively. The muster roll (Ex-A) is also filed along with the Statement of claim. She was regularly signing the muster roll/book and was being paid through vouchers. This system was discontinued since she moved an application before Central Administrative Tribunal, Mumbai Branch, Mumbai vide application No.697 of 1999. She was pressed by the Second Party to withdraw the application and she did withdraw it under the assurance that she would be absorbed/re-engaged in the service. She has come out in para 3 of the Statement of claim that she worked for 301 days from Jan. 1996 to December 1996, 302 days from Jan' 1997 to December '97, for 321 days from June 1998 to May 1999. She did not attend to her duty from about October 1999 on account of illness of her father in law who ultimately expired on 03-7-2001. She made a request in writing on 30-5-2001 for duty but she was neither taken on duty nor was terminated till date. She is entitled to the status of temporary worker on completion of 240 days as per Casual Labour (Grant of temporary status and regularization scheme 1989) (Ex-D). The work of Sweeper is of perennial nature. She has not been terminated after following the procedure under Section 25 of the Industrial Dispute Act. She has not been served any notice for termination of service nor she has abandoned the services. The non-engagement amounts to retrenchment which is illegal for not following the provisions of Section 25 of the Act. She is entitled to be re-engaged as Sweeper or in the alternative she may be given a job as a casual labourer with a temporary status since she has completed 240 days from Jan' 1997.

The Management of BSNL filed the reply and alleged that Smt. Mani Lalji Padaya was a Part time sweeper working less than two hours every day. She worked only on a specific work on contract basis. Hence reference is not maintainable. She admittedly, left the work in September 1999 and did not turn up thereafter for about two years. The contractual worker cannot expect the worker to wait and watch till she turns up for the work. She herself abandoned the Service. There is no vacancy of sweeper available in the office. The work of sweeping is now got done on contract basis. There is no violation of any of the provisions of the Industrial Dispute Act. It has been

specifically pleaded in para 10 that she was awarded the work of Sweeping and mopping on contract basis just for two hours from 8.00 AM to 10.00 AM for five days in a week up to May 1998 and for three hours from 8.00 AM to 11.00 AM for 4 to 5 days in a week from June 1998 onwards excluding Saturdays, Sundays and holidays. In para 11 it has given out the chart of the days worked by her from the year 1991 to 1999. It is alleged that she never worked for 240 days in a year and hence she is not entitled for grant of temporary status or benefit of regularization under the regularization scheme 1989. The allegations made in the Statement of claim have been specifically denied.

3. The workman filed the affidavit dt. 13-8-2003 in a reply to the written statement, referred to above reiterating her case.

4. The Management filed additional written statement on 28-4-2004 and submitted that the workman was not a casual employee under Section 25-B of the Act since she was working only as a Part time sweeper for two hours or three hours a day according to the need of the work. The question of drawing monthly salary does not arise. Since she was not a casual labourer, there was no muster roll maintained by the Management. The contention of the workman that she was signing muster roll is false. The muster roll annexed with the statement of claim is denied being a manipulated one by the workman. It has not been authenticated by any Controlling Authority. She was employed for a specific job and hence there was no employer employee relationship between the management and the workman. It is also submitted that whenever the Management employ casual workers, the presence of the workers is marked in a book maintained for the said purpose and a particular number is given to the said casual labour on the basis of the number of said book and sheet muster is maintained. It is also submitted the specimen copy of the muster roll.

The workman was never given any casual mazdoor number.

5. The workman again filed additional rejoinder in reply to the additional written statement and reiterated the stand:

6. The workman filed her own affidavit in lieu of her examination in chief on 17-10-2003. She has been cross examined by the learned counsel for the Management wherein she has admitted that she has filed this case for being appointed as permanent employee. She has passed upto 7th standard. She knows Gujarati, Hindi and Marathi. She was not given any appointment letter. She used to work from 9.00 AM to 12.00 PM. She does not have any proof for her part time appointment except her work. She was appointed by Mr. Vimal Vakulu. She was paid by Mr. Prajapati, A.E. She was required to sign vouchers. She was working in Micro office. She was not given Identity card but issued gate passes for entry into the office. She asked for leave since her father in law was ill. The request was oral. She did not give any application in writing since she

did not know that she was required to give in writing. She was not granted the leave so she did not attend to her duty. She applied for job after the death of her father in law. She remained absent up to six to seven months. She made the representation only on 30-5-2001. She received the salary as long as she worked. Her husband and brother in law are working in B.M.C. She was not given any casual labour card or mazdoor number. She was not paid by Accounts Section on a pay slip. She did not receive any work order. She was shown muster roll M-2 to which she said it was for casual labour. She has filed the muster roll consisting of six pages bearing the signature of Mr. Prajapati A.E. but she is unable to identify the signature of Mr. Prajapati. She worked as part time sweeper till 1998 and as Full time sweeper from 1999. The muster roll was signed by J.T.O. in view of the direction from his superiors. She knows the person who signed the muster roll and she would produce him. She had filed the case before the CAT which was withdrawn by her. It is correct to say that when she worked as part time sweeper, she was treated to have worked for half day for which she was paid till 1998. This was the method of calculation of part time work. She has not been removed from service but she has not been taken back in service.

7. The Management filed the affidavit of Mr. Biju Madhavan, S.D.E. (Microwave) in lieu of his examination in chief. He has been cross examined by the learned counsel for the workman. The cross-examination is very short wherein he stated that he has supervised the work of the workman himself since he has worked as J. T. O. The muster roll was maintained for casual sweepers. Mr. Prajapati was Sub-Divisional Engineer and not JTO (Junior Telecom Engineer) Mr. Kartheesan was there in 1991 as J.T.O. Mr. Subramanyam was JTO in 1994. These persons could not be produced since they are transferred to Chennai. The work of the workman is now being done on contract basis by inviting tenders. The workman worked for two hours daily only. She did not turn up herself. She was not engaged on contract or through Contractor.

8. I have heard the learned counsel for the parties and have also perused the written arguments dt.20-10-2005 and also the additional written arguments dt.29-9-2006 filed by the learned counsel for the workman. No written arguments are filed on behalf of the Management. The learned counsel for the Management at the very outset placed before me the copy of the judgement of the Honourable High Court of Bombay in Writ Petition No. 788 of 2004 decided on 27-7-2006 in respect of the matter in between Mahanagar Telephone Nigam Ltd. vs. Mithibai Parmar and anr. and submitted that the facts of the aforesaid writ petition are of similar with the facts of the present reference. The petitioners of the aforesaid writ petition were part time workers working for four hours a day. They were directed to be absorbed by the Labour Court but the Honourable High Court set aside the order and dismissed the claim of the petitioners. He also filed AIR 2006 Supreme Court 1806 Secretary, State of Karnataka Vs. Umadevi and

others, 2006 (2) Supreme Today 354 (SC) M.P.Housing Board and Anr. vs. Manoj Srivastava, and (1996) 1 Supreme Court cases 595 State of Rajasthan and others vs. Rameshwar Lal Gehlot and 2006 I CLR 1066 Branch Manager MP State Agro Industries Development Corporation Ltd Vs. S.C. Pandey.

9. The learned counsel for the workman has cited the following rulings.

- (i) Suriya Begam V. Union of India and Ors. 2005 (2)SLJ CAT395.
- (ii) Chaturbuj Sharma vs. Union of India and Ors. 1999 (3) ATJ CAT 504.
- (iii) Ravinder kumar and Ors. vs. Union of India 2002 (2) ATJ CAT 55.
- (iv) Meherchand vs. N.D. M. C and Ors. 2003 (2) SLJHC 77.
- (v) S.P.Sharma vs. Union of India and others (1997) 85 ATC 322.
- (vi) M/s. G.K.Khosla Compressors Ltd. vs. Presiding Officer, Industrial Tribunal-cum Labour Court-I, Faridabad & Ors.
- (vii) Harishankar Swamy vs. Union of India (1992) 20 AJC 617.
- (viii) Ravikumar vs. Presiding Officer, Labour Court, Patiala 2001 (1) AJJ HC 296.
- (ix) M/s. Indian Farmers Fertilizer Coop. Ltd. Industrial Tribunal 1, Allahabad and Ors. 2002 SCC (L&S) 214.
- (x) Manorama Verma vs. State of Bihar (994) 28 ATC 709.
- (xi) Karnataka Electricity Board vs. Sri Pyarejan 1998 (3) ATJ 256
- (xii) M/s. Arun Industry vs. Presiding Officer, Labour Court, Delhi & Ors. 2005 (3) SLJ HC 9.
- (xiii) A. S. Chavan vs. Union of India 1999 (1) SLJ CAT 502.
- (xiv) FCI Workers Union vs. ICI (1996) (2) SC SLJ 227.
- (xv) Taj Naresh Vs. Union of India 2002(2) ATJ CAT 52.
- (xvi) C.T. Nikam Vs. Municipal Corporation. Etc. 2002 SCC (L & S) 317.
- (xvii) 2003 Supreme Court Cases (L&S) 380 in between S.M.Nilajkar and others vs. Telecom District Manager, Karnataka.
- (xviii) 2006(1) 193 before the Honourable Delhi High Court in between Municipal Corporation of Delhi vs. Ajay Kumar.
- (xix) 2002(3) page 441 before the Central Administrative Tribunal in between Kiran Pal and Ors. vs. Union of India and Ors.

10. Section 2(oo) and Section 25-F of the Act relevant for the present reference are quoted below.

“(oo) ‘retrenchment’ means the termination by the employer of the service of a workman for any reason

whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- a. voluntary retirement of the workman; or
- b. retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- c. termination of the service of a workman on the ground of continued ill health;

25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

From the perusal of the evidence on record, it is the admitted position that Smt. Mani Lalji Padaya was working as Part time sweeper for two or three hours only for a day since 1991 to 1998 as stated by her in her evidence. She was not given any appointment letter. She was not given any casual labour employee number or Mazdoor number. She used to receive the payment of wages on vouchers. She was not given the status of casual labour. She was not employed after following due procedure of law since she was kept as a part time worker according to the exigency of the work and need of the hour. She was admittedly paid for the work she did no for which no dispute is there.

11. The workman alleged that she worked as full time sweeper from June 1998 onwards till September 1999. She has filed muster rolls consisting of six pages showing the attendance from the year 1991 to July 1999. These muster rolls are not being proved in accordance with law. They are not being authenticated by any Officer of the BSNL under its seal of the Office. The attempt made by the workman that some of the muster rolls bear the signature of Mr. Prajapati to prove the muster rolls has not worked

out since she failed to identify the signatures of Mr. Prajapati on the muster rolls. No witness is produced to prove the alleged muster rolls which are on simple sheet of paper with no official seal at all or designation of any Officer of the Company. These muster rolls are disputed by the BSNL from the very beginning. Thus it was the burden of the workman to have got proved them in accordance with law. The fact remains that the muster roll cannot be admitted in evidence being not proved in accordance with law. Contrary to it, the Management filed a specimen copy of the muster roll maintained for casual labour which is quite different to the aforesaid muster roll in fact, the management has contended that no muster roll is maintained for a part time sweeper. The non-maintenance of a muster roll may be of contravention of provisions of Section 25-D of the Act but that does not lead to the conclusion that the alleged muster rolls filed by the workman may be taken as proved muster roll to show the attendance. Admittedly, the workman worked for two or three hours a day upto 1998 and hence, the question of her working of 240 days in a year does not arise.

12. Admittedly, the workman has not been terminated so far till date as stated by her in her evidence. Hence, the question of non-following the procedure of Section 25 of the Act does not arise. The only contention of the workman is that she could not attend to her duties from October 1999 onwards on account of the sickness of her father in law and went to join back to her duties in July 2001 after the death of her father in law. Thus, she remained absent for about one and half year. The statement of the workman that she remained absent for six or seven months only as given out in her cross examination is false. The long absence of about one and half year from duty in respect of part time worker amounts to abandonment of the service. The workman herself relinquished the lien of the job. She could not claim as of right her re-engagement on the same job. She was not a casual worker even for a year as alleged for the period from June 1998 onwards. The question of retrenchment does not arise in view of the admitted facts. The rulings relied upon by the learned counsel for the workman, quoted above, are not helpful on the facts and circumstances of the present case. More particularly, in view of the judgement of Honourable High Court of Bombay in the case of Meethibhai Parmar (supra) wherein Honourable High Court dismissed the case of the part time sweeper for re-engagement/absorption/regularization in service. The case of Meethibhai Parmar has got the same facts and circumstances which are in the present reference. That being so, there appears to be no merits at all in the case of the workman under reference.

13. It may also be mentioned that the present reference is being made by the Central Govt. under the assumption that the workman has been terminated from service although as per own admission of the workman she has never been terminated from service but she has not been permitted to join the duties after the death of her father in law in July 2001. Hence, reference is bad in law.

14. It is also proved on record that there is no vacancy for the post of sweeper. The work of sweeping is got done by BSNL on a contract by inviting tenders. Although the work of sweeping is of perennial nature but that must not give any right to the workman for being absorbed in the service. She was never appointed as a casual worker after following due procedure of law. There is no violation of Section 25-F, G and H of the Act. She is not proved to have worked for 240 days in a year. Since there is no termination, the question of retrenchment does not arise.

15. In view of what has been discussed above, I conclude that Smt. Mani Lalji Padaya is not entitled to any relief. The reference is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

क्र.आ. 4648.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्द्रल सिल्क बोर्ड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 420/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-42012/101/96-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4648.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 420/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Silk Board and their workman, which was received by the Central Government on 8-11-2006.

[No.L-42012/101/96-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Presiding Officer : Shri Kuldip Singh

CASE NO. I.D. NO. 420/2K5.

Registered on 19-8-2005.

Date of Decision 12-9-2006.

Krishan Lal S/o Baba Ditta C/o Shri Laxshman Ravinder
Singh, General Secretary, BMS, J&K State,
Prade, Jammu (J&K)-180001.

Petitioner

Versus

Assistant Director, N.S.P., P. 2, B.S.F., Miran Sahib,
District Jammu.

Respondent

APPEARANCE

For the Workman :

Mr. S. C. Talwar

For the Management :

Mr. M. K. Dogra
Advocate.

AWARD

The Govt. of India vide their Notification No. L-42012/101/96-IR(DU) dated 2nd July, 1997 referred the following matter for the adjudication of this Tribunal:

"Whether the action of the Management of Basic Seed Farm, NSP, Central Silk Board is legal and justified in terminating the services of Shri Krishan Lal? If not, to what relief the workman is entitled to?"

After the reference was received in this Tribunal notices thereof were issued to the parties who appeared through their Counsel. The workman filed his claim petition and the management filed the Written Statement. The workman filed the re-application and his own affidavit whereas the Management filed the affidavit of Shri K.R. Sharma, Deputy Secretary of the Management Board. The parties also placed on record documents showing the number of days the workman served the Management from Nov., 1994 to Nov., 1995.

The claim of the workman is that he was appointed by the management as a labourer on January, 1992 and he continued serving them upto Nov., 1995 when his services were terminated by the Management, without any rhyme and reason and without notice; that at the time of termination, the workman was drawing Rs. 1400/- as wages. The Management, therefore, did follow the provisions sections of 25-G of the Industrial Dispute Act 1947, for short "ACT". It is further alleged by him that neither he was chargesheet nor any inquiry was held, before the termination of his services. The Management further violated the law by retaining the juniors and terminating his services. They also made fresh recruitment and thus violated Section 25-G & H of the Act. The workman has prayed for declaring the termination of services of workman as arbitrary, invalid and in violation of principles of natural justice. He has prayed for grant of relief of re-instatement in service and grant of back wages and other service benefits including continuity of service.

The Management has opposed the claim of the workman stating that the reference is not maintainable since the workman has concealed the true facts. According to them the engagement of the workman was for a fixed period of 58 days, on the expiry of which the workman himself had left the job; that since the workman did not complete 240 days of service preceding 12 months from the day of disengagement, therefore, he is not entitled to any relief. Also because he does not fall in the category of the workman.

On merits, it is submitted by the Management that the workman had himself left the job in accordance with the terms and conditions of the engagement. He was purely engaged for a job of casual labourer. He used to be engaged intermittently for a period not more than 59 days and that itself shows that the workman used to be engaged for specific job and for specific period, therefore, there was

no question of issuing him a separate notice. The Management has reiterated that the engagement of the workman was purely for seasonal work, which he had accepted therefore, he did not fall in the category of the workman so as to be entitled to relief under Sec-25-F, G & H. His claim for relief under this section is not maintainable as he did serve the Management for 240 days, twelve months preceding the date of his termination. It is stated by the Management that there were strict instructions against the engagement of any casual workers; that the workman has remained gainfully engaged all through this period. According to them the workman is not entitled to any relief.

The workman through his rejoinder has only reiterated the facts, stated in the Claim Petition and has not stated anything new nor has explained the facts alleged by the Management. He admitted that initially he was appointed for 59 days, but he worked for the Management un-interruptedly from 9th Jan., 1992 to 14th Nov., 1995, thereby he served the Management for more than 240 days, before the date of termination of his services. According to him a workman is a workman, casual, regular or daily wager. Since the work with the Management had not ended, therefore, the termination of services of workman was bad in law. The same needs to be quashed.

Before I proceed to examine respective claims of the parties, it would be useful to re-account what the witness of the Management stated orally in this Court, Shri K.R. Sharma, who appeared as witness in this Court admitted the contents of his affidavit. He also relied upon the documents exhibit M2 to M8. In cross-examination he stated that the workman was appointed on 1st Jan., 1992; and that the date of termination was not conveyed to the workman as it was mentioned in the appointment letter; that the workman was engaged for a particular project and the workman knew about it. His services were discontinued after the work was over. Thereafter holding the regular employees performed the work. He further stated that the project in question is not continuing, however, the production of silk is going on. That Jammu Unit is working as Divisional Sericulture Research Station for the past 10-12 years, but the workman was not appointed as a regular for that centre; that due to reduction in funds, the recruitment of casual labourer is not being done and the work is being carried on through regular workers. Denying that at the time of termination of his services the juniors of the workman were not working it is stated by him that the services of the workman were terminated in accordance with his appointment letter and that no compensation was paid to the workman since it was not required to be paid.

On record I find the copies of the office orders and memorandums. The orders are dated 17th Dec., 1994, 10th July and 16th Sep., 1995 whereas the memorandums are dated 15th Sep., 1993, 20th Dec., 1993, 7th March, 1994, 21st June, 1994 another memorandum dated 21st June, 1994. The perusal of these orders and memorandums make interesting reading. Among these orders and memoran-

dums none relate to the initial appointment of the workman which even the witness of the Management admitted that the workman was engaged w.e.f. 1st Jan., 1982. No doubt the workman also admitted that his initial appointment was for 59 days, but he claimed that he had continuously worked for the Management, right from the day of his initial appointment. The examination of the office orders and memorandums show *prima facie* that these documents were prepared in bulk and the names of the workman was filled in the blank space, later on. You find many cuttings and additions made in these orders which create doubt in the veracity of these documents. You further find that the dates for which the workman is shown to have been engaged were changed by cuttings and interpolations. There is also no uniformity as to why the workman was engaged from a specific date upto another specific date without showing as to for how many days the workman was engaged except in the case of office orders dated 10th July, 1995 and 16th Sep., 1995. For example the Management is shown to have issued two memorandums on 1st June, 1994 under different despatch Nos. and by virtue of said orders the workman was engaged for different dates. By memorandum bearing despatch No. 142, the workman is shown to have been engaged from 21st June to 17th August, 1994, but by subsequent despatch No. dated 21st June, 1994, the workman is shown to have been engaged from 20th Sep., 1994. This order was signed on 20th Sep., 1994, but dispatched on 21st June, 1994, similarly the dates were changed from the original typed letter, bearing dispatch No. 277 dated 16th Sep., 1993. All this create doubt in the authenticity of these orders, to show that these orders were not properly issued, at proper time, so as to bind the parties. The workman was in the witness box and remained in the hands of the Management, to face the cross examination on more than one day, but the Management did not dare to put these orders and memorandums to him to prove that the same were genuine once. He denied the suggestions that the appointment letters were issued to him from time to time. It was the point when the Management should have shown him his signatures on the orders of appointment which they have claimed were served upon the workman against his signatures. The Management on their part did not examine the person who had signed as Assistant Director or his superior or juniors to show that these orders were issued by such and such persons and the same were served upon the workman. I find that there is no uniformity in the signatures shown to be that of the workman even to a naked eye.

There is another way to test these orders. According to order dated 17th Dec., 1994 the workman is shown to have served the Management for 13 days in the month of Dec., 1994, but the statement showing the payment made to the workman, reads that the workman had worked only for 5 days. The two statements, therefore, do not tally which also create doubt in the veracity of these orders.

There has come no explanation from the side of the Management as to why the workman was not engaged

regularly when the work was available except that his engagement was seasonal, but the alleged appointment orders show that the workman was engaged not in a particular season. He was engaged in December, January, February, June, July, August, March, October, September and November. This also belies the claim of the Management that the engagement of the workman was seasonal. The combined reading of the evidence brought on record creates doubt in the submission of the Management that the engagement of the workman was for specific work and specific period and he got disengaged by efflux of time. To my mind it was the modus operandi adopted by the Management to show that the workman did not work continuously for the Management and in that effort the Management has failed. There has come no evidence on record to show that the Management had regular employees who performed the duty during the period the workman was not engaged. I, therefore, do not find any evidence to show that the workman was engaged for specific period and for specific work and his service got disengaged automatically from the date mentioned in the orders. Infact the Management has failed to show that there were valid appointment orders of engagement of the workman and the Management was justified to issue such orders. In the absence of that it has to be taken that there were no such orders issued by the Management and the orders shown to have been issued are manipulated unscrupulously so as to deny the workman his claim of having served the Management for 240 days.

The Management has admitted that neither any notice of termination was issued to the workman nor he was paid any termination compensation. According to them the same was not required. In view of the discussion made above it has been held that the workman had continuously served the Management till his services were terminated on 14th November, 1995 i.e. for more than 240 days. The Management, therefore, violated the provisions of Sec-25-F of the Act while terminating his services. And that makes the disengagement of the workman as illegal. The same is, therefore, quashed.

The workman has claimed that he has been working in the fields and met the expenses of his family from income thereof. This shows that the workman though was not engaged fully in the gainful employment, after he was discharged from service by the Management, but he did remain engaged in earning livelihood.

Considering the facts and circumstances of the case I am of the opinion that the order of the Management, to disengage the workman from his service, was bad illegal and unjustified and the same has been quashed. The workman is treated to be in service all through this period as if there was no order of his termination, by the Management. The Management is directed to take him back in the service immediately. As regard the question of back wages I find that as per his own admission the workman earned wages by working in the fields, that is how, he could meet the expenses of his family amount of 3000 to

4000 per month. The fact still remains that he was not fully employed to earn as much as he would have earned in the service of the Management. Therefore, he needs to be compensated for the suffering he has met at the hands of the Management. It is directed that the Management shall pay 25% of the back wages to the workman from the date of termination of his services, which has been declared as bad in law. The reference is answered holding that the action of the Management, Basic Seed Farm NSP, Central Silk Board, was illegal and unjustified. The workman is entitled to the reinstatement on the service as if there was no order of his termination. He is also entitled to back wages to the time of 25% of the wages, he would earned what for the order of his termination. The award is passed. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4649.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 115/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/47/2005-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4649.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/47/2005-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM- LABOUR COURT, NEW DELHI

Presiding Officer : R. N. Rai

I. D. No. 115/2005

In the Matter of :—

Shri Kewal Ram,

S/o. Shri Gograj,

R/o Vill: Gotoli, Tehsil—Tijara,

Alwar

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Rotak (Haryana).

AWARD

The Ministry of Labour by its letter No. L-40012/47/2005 IR (DU) Central Government Dt. 26-10-2005 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the management of BSNL, Rohtak in terminating the services of Shri Kewal Ram, S/o Shri Gograj, Cooly w. c. f. 1992 is just and legal? If not, to what relief the workman is entitled to?”

The case was fixed for filing rejoinder on 07-07-2006. Several dates have been given. The workman did not turn up. He has not filed rejoinder. Opportunity of filing rejoinder was closed on 26-10-2006. The management was heard. The workman has not filed rejoinder. He has also not filed affidavit in support of his case. He has not proved his claim statement.

The reference is replied thus:—

The action of the management of BSNL, Rohtak in terminating the services of Shri Kewal Ram, S/o. Shri Gograj, Cooly w. c. f. 1992 is just and legal. The workman applicant is not entitled to get any relief as prayed for.

Award is given accordingly.

Dated: 31-10-2006

R. N. RAI, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4650.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1009/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था:

[सं. एल-40012/198/2001-आईआर (डी.यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1009/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/198/2001-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Presiding Officer

Shri Kuldip Singh

Case No. I.D. No. 1009/2005.

Registered on 17-09-2005.

Date of Decision 19-09-2006.

Kewal Krishan

C/o. Shri N.K. Jeet,
27349, Lal Singh Basti Road,
Bhatinda (Punjab)

....Petitioner

Versus

The General Manager,
Telecom,
Microwave Building,
Master Tara Singh Nagar,
Jalandhar (Punjab).

.....Respondent

APPEARANCE

For the Workman :

Mr. N.K. Jeet,
AR

For the Management :

Mr. G.C. Babbar,
Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 639 dated 18th July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide Notification No. L-40012/198/2001-IR(DU) dated 31st Dec., 2001 referred the dispute for the adjudication of this Tribunal which is in the following words :

“Whether the action of the Management of General Manager (Maintenance), Telecom Jalandhar in terminating the services of Shri Kewal Krishan S/o Shri Madan Lal is just and legal? If not to what relief the workman is entitled to and from which date?”

After the reference was received, notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements and office Memorandums. The workman filed a rejoinder. The Management filed the affidavit of their Divisional Engineer, Telephones. The case was being listed for the evidence of the workman but as stated earlier neither he appeared nor filed his affidavit. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as Casual Workman in Coaxial, Bathinda on 1st March, 1997 on a salary of Rs. 2138/- and he served the Management upto 31st August, 1999. When his services were terminated

without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Section 25-G & H. By their Written Statement the Management has denied all the claims made by the workman. According to them the workman was neither engaged by them nor his services were terminated by them. According to them the workman was an employee of the Contractor. In support of their Written Statement they have filed the affidavit of their witness whereas the workman has neither filed the affidavit nor has produced any evidence to show that he was engaged by the Management on 1st March, 1997 and his services were terminated from 1st August, 1999, without following the provisions of Industrial Dispute Act. Since the workman has failed to substantiate his claim as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management has engaged the workman Kewal Krishan and they terminated his service illegally. The workman therefore is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4651.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-11, चण्डीगढ़ के पंचाट (संदर्भ संख्या 636/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/26/2001-आईआर(डीयू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4651.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 636/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No.L-40012/26/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

**ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Shri Kuldip Singh, PRESIDING OFFICER

Case No. LD. No. 636/2005.

Registered on 24-08-2005.

Date of Decision 19-09-2006.

Baljit Singh,
S/o. Shri Jagir Singh,
C/o. Shri N.K. Jeet,
27349, Lal Singh Basti Road,
Bhatinda (Punjab).

.....Petitioner

Versus

The General Manager,
Telecom,
Amritsar (Punjab)

.....Respondent

APPEARANCE

For the Workman :

Mr. N.K. Jeet,
AR

For the Management :

Mr. G.C. Babbar,
Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 583 dated 21st July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide Notification No. L-40012/26/2001-IR(DU) dated 27th April, 2001 referred the dispute for the adjudication of this Tribunal which is in the following words :

"Whether the action of the Management of General Manager, Telecom, Amritsar in terminating the services of Shri Baljit Singh S/o. Shri Jagir Singh is just and legal? If not, to what relief the workman is entitled and from which date?"

After the reference was received, notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements and other documents on record. The workman filed a rejoinder. The Management filed the affidavit of their SDO, Amarjeet Singh. The case was being listed for the evidence of the workman but as stated earlier neither he appeared nor filed his affidavit. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman has claimed that he was engaged as Workman in the office of SDO, Phones, Civil II, Amritsar on 15th June, 1997 on a salary of Rs. 2138/- and he served the Management upto 28th Feb., 1999, on that day his services were terminated without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing

opportunity to the workman and thereby further violated the provisions of Sections 25-G & H. By their Written Statement the Management has denied all the claims made by the workman. According to them the workman was neither engaged by them nor his services were terminated by them; and that the workman was an employee of the Contractor. In support of their Written Statement they have filed the affidavit of their witness whereas the workman has neither filed the affidavit nor has produced any evidence to show that he was engaged by the Management on 15th June, 1997, and his services were terminated by them from 28th Feb., 1999, without following the provisions of Industrial Dispute Act 1947. Since the workman has failed to substantiate his claim as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Baljit Singh and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4652.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 635/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/28/2001-आईआर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4652.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 635/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/28/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Shri Kuldip Singh, PRESIDING OFFICER

Case No. I.D. No. 635/2005.

Registered on 24-08-2005.

Date of Decision 19-09-2006.

Lalit

S/o. Shri Ram Dass

C/o. Shri N.K. Jeet,

President

Telecom. Labour Union,

Mohalla Hari Nagar,

Lal Singh Basti Road,

Bhatinda (Punjab).

.....Petitioner

Versus

The General Manager,

Telecom,

Amritsar (Punjab)

.....Respondent

APPEARANCE

For the Workman :

Mr. N.K Jeet,

AR

For the Management :

Mr. G.C. Babbar,

Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 383 dated 21st July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide their notification No. L-40012/28/2001-IR(DU) dated 27th April, 2001 referred the dispute for the adjudication of this Tribunal which is in the following words :

“Whether the action of the Management of General Manager, Telecom, Amritsar in terminating the services of Shri Lalit S/o Shri Ram Dass is just and legal ? If not, to what relief the workman is entitled and from which date?”

After the reference was received notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements and other documents on record. The Management filed the affidavit of their witness. The workman filed a rejoinder. The case was being listed for the affidavit of the workman but as stated earlier the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a workman in the office of the S. D. (RLU) Amritsar on 1st June, 1994 on a salary of Rs. 2138/- and he served the Management upto 28th Feb., 1999, on which day his services were terminated without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated

the provisions of Sections 25-G & H. By their Written Statement the Management has denied all the claims made by the workman. According to them the workman was neither engaged nor his services were terminated by them and that the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 1st June, 1994, and his services were terminated by them from 28th Feb., 1999, without following the provisions of Industrial Disputes Act. Since the workman has failed to substantiate his claim, as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Lalit and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4653.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 634/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/21/2001-आईआर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4653.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 634/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No.L-40012/21/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case I.D. No. 634/2005.

Registered on 24-8-2005.

Date of Decision 19-9-2006.

Naresh Kumar S/o Shri Surjit Lal C/o Shri N. K. Jeet,
27349, Lal Singh Basti Road, Bhatinda (Punjab).

Petitioner

Versus

The General Manager, Telecom. Amritsar (Punjab)

Respondent

APPEARANCE

For the Workman : Mr. N. K. Jeet,
AR

For the Management : Mr. G. C. Babbar,
Advocate.

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 583 dated 21st July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Government of India vide Notification No. L-40012/21/2001-IR(DU) dated 27th April, 2001 referred the dispute for the adjudication of this Tribunal which is in the following words :

“Whether the action of the Management of General Manager, Telecom, Amritsar in terminating the services of Shri Naresh Kumar S/o Shri Surjit Lal is just and legal? If not, to what relief the workman is entitled and from which date?”

After the reference was received notices thereof were issued to the parties. The workman appeared through authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed on record photocopies of the agreements and other documents. The Management filed the affidavit of their witness. The workman filed a rejoinder. The case was being listed for the affidavit of workman, but as stated earlier, the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a Workman in the office of the DE Phones cable, Amritsar on 1st January, 1997 on a salary of Rs. 2138/- and he served the Management upto 28th February, 1999 and on that day his services were terminated without notice, chargesheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Section 25-G & H. By their Written Statement the Management has denied all the claims made by the workman and that the workman was neither engaged nor his services were terminated by them and that the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 1st January, 1997 and his services were terminated by them from 28th February, 1999, without following the provisions of Industrial Disputes Act 1947. Since the

workman has failed to substantiate his claim, as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Naresh Kumar and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let of copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ 4654.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 633/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/32/2001-आईआर(डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4654.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 633/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/32/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 633/2005.

Registered on 24-8-2005.

Date of Decision 19-9-2006.

Bal Kishan S/o Shri Parkash Chand C/o Shri N. K. Jeet,
President, Telecom, Labour Union, Mohalla Hari Nagar,
Lal Singh Basti Road, Bhatinda (Punjab).

.....Petitioner

Versus

The General Manager, Telecom, Amritsar (Punjab).

.....Respondent

APPEARANCE

For the Workman : Mr. N. K. Jeet
AR

For the Management : Mr. G. C. Babbar
Advocate.

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately, a notice under R/C vide Postal Receipt No. 583 dated 21st July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raise the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide Notification No. L-40012/32/2001-IR (DU) dated 27th April, 2001 referred the dispute for the adjudication of this Tribunal which is in the following words :

"Whether the action of the Management of General Manager, Telecom, Amritsar in terminating the services of Shri Bal Kishan S/o Shri Parkash Chand is just and legal ? If not, to what relief the workman is entitled and from which date?"

After the reference was received, notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed on record photocopies of the agreements and other documents. The Management filed the affidavit of their witness. The workman filed a rejoinder. The case was being listed for the affidavit of the workman, but as stated earlier, the workman stopped appearing in the case. His conduct has shown that he withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a Workman in the office of DE Phones, DTO Amritsar on 15th January, 1997 on a salary of Rs. 2138/- and he served the Management upto 28th February, 1999 and on that day his services were terminated without notice, chargesheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Section 25-G & H. By their Written Statement the Management has denied all the claims made by the workman and that the workman was neither engaged nor his services were terminated by them and that the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 15th January, 1997 and his services were terminated by them from 28th February, 1999, without following the provisions of Industrial Disputes Act 1947. Since the workman has failed to substantiate his claim as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Bal Kishan and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate Govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का. आ. 4655.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 664/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/96/98-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4655.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 664/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/96/98-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I. D. No. 664/2K5

Registered on 25-8-2005

Date of Decision : 13-9-2006

Chet Ram S/o Shri Atma Ram, Village and P. O. Tumman, Tehsil Karsog, Mandi (H.P.).

... Petitioner

Versus

Divisional Engineer, Telecom, Rampur. H. P.

... Respondent

APPEARANCE:

For the Workman : Mr. R. P. Rana, Advocate

For the Management : Mr. Manoj Chauhan, Advocate.

AWARD

The matter for the adjudication of this Tribunal is the dispute referred by Govt. of India vide their order No. L-40012/96/98/IR(DU) dated 6th May, 1999 which is in the following terms :

"Whether the action of the Divisional Engineer, Telecom Sub-Division, Rampur in terminating the

services of Shri Chet Ram S/o Shri Atma Ram is legal and justified ? If not, to what relief the workman is entitled ?"

The Tribunal after entering the reference in the concerned register issued notice to the parties who appeared through their Counsel. The workman filed his Claim Petition, to which the Management filed the reply. The workman filed his affidavit and the reapplication. He further requested the Tribunal to direct the Management to produce their muster rolls/attendance register and vouchers of payment pertaining to the period Oct., 1992 to Nov., 1996. The Management filed affidavit of Shri G. S. Negi in support of the written statement. They also filed the affidavit of Shri S. R. Gupta, S. D. E. Legal. They further supported their reply to the application of the workman, by the affidavit of Shri S. R. Gupta S. D. E. and that of Dilwara Singh the Divisional Engineer. The parties also tendered oral evidence. The workman himself appeared as a witness whereas Management produced Dilwara Singh as Management's witness.

Stating in nutshell, the claim of the workman is that he had joined service with the Management as Baildar/Mazdoor on daily wages in Sub Division Rampur of Shimla Division in October 1992 and he served them till November 1996; that his services were terminated orally; that during the period of his service the workman met with an accident on 25th March, 1993, as he was electrocuted during the course of discharge of his duties and remained unwell till July 1993. He was then given the charge of store Chowkidar on which post he served till November 1996; that the Management held interviews twice in the year 1993, for appointment on regular basis from among daily rated Mazdoor, but he was not selected whereas the Management selected two persons; that in the years 1995 and 1996, the Management again held the interviews and even then his claim was rejected although he had a long experience of working with the Management. On the other hand the Management terminated his services without following the provisions of Sec. 25-F of the Industrial Disputes Act, for short "ACT". They further violated the provisions of Sec. 25-H. He, in the end, has prayed for declaring his termination as bad in law and reinstating him on the post right from November, 1996, as if there was no order of his termination. He has also prayed for back wages alongwith interest thereon.

The Management has opposed the claim of the workman stating that the same is not maintainable since the workman had not completed 240 days service for the Management; and that the services of the workman were terminated under rules; and the provisions of Sec. 25-F and G are not applicable in the case. According to them the reference itself is bad. On merit it is their submission that the workman was engaged, of and on daily wages and he did not serve the Management continuously for 240 days

in any of the years from 1992 to 1996 during which he worked for the Management; that the services of the workman were not required as there was no work available with the Management, therefore, his services were dispensed with. Denying the averments made in the Claim Petition, it is stated by the Management that the workman was never given the charge of store-chowkidar as the said charge remained with the Store-Lineman; that the Management had conducted interviews by constituting the departmental selection committee and the appointments were made on their recommendations under rules. Since the Management did not violate the provisions of law, therefore, the workman was not required to be paid the compensation. The services of the workman were terminated on the joining of regular daily wager Mazdoor. They have prayed for dismissal of the reference as the workman had not fulfilled the basic requirement of having served the Management for 240 days in a calendar year during the period October 1992 to November 1996.

By his statement, before this Tribunal the workman proved his affidavit and certificates Exhibit W-1 and W-2. He denied that he had not completed 240 days service or that he had worked intermittently. He further stated that he had continuously worked for the Management and the payment was made to him on the muster rolls. He denied that he was gainfully engaged after his discharge from service by the Management. Mr. Dilwara Singh who appeared as a witness for the Management also proved his affidavit Exhibit M1 and stated that the workman had served with him for sometime and he was removed from service in November 1996. He admitted that no notice was given to the workman before his termination from service or he was paid any retrenchment compensation. He denied that the workman had served the Management for 240 days till November 1996, during the period preceding one calendar year from that day. He could not state, without the record, as to for how many days the workman had served the Management as the record stand destroyed.

I have gone through the file and have also considered the rival submissions of the Counsel for the parties.

The facts which are admitted by the parties are that the workman had been engaged in October 1992 and he was disengaged from service in November 1996. As per his own admission the workman he had not worked for the Management from 25th March, 1993 to July 1993 since he had met with an accident and was electrocuted. Thus the workman did not continuously work for the Management from October 1992 to November 1996. The workman has relied upon his experience certificate Exhibit W2 which according to him was issued by the SDE Phones (Group) Rampur, Mussar. According to this certificate the workman had worked for the Management for more than one year and he gained the experience of working as over head line and of wire work in the Telecom Department. This certificate

does not show from which period and upto which period the workman was engaged and he gained the experience of more than one year in the special line. This certificate further reads that the workman was engaged casually of and on as Mazdoor and at different occasions. Thus this certificate goes counter to the claim of the workman that he had served the Management continuously and in no case less than 240 days in the year preceding the date of his termination. In my opinion this evidence of the workman goes against the claim of having served the Management continuously for 240 days in 12 calendar months preceding the date of termination of his services.

The workman claimed that he had been paid wages on muster rolls. He requested the Tribunal to issue directions to the Management to produce the Muster Rolls/ Attendance Register and Vouchers for the period October 1992 to November 1996. The Management replied the application and stated that the workman had not served them as is his claim. They further stated that the record summoned was destroyed after five years, as per the rules. Thus they were unable to produce the record. They have supported the reply of the application by the Affidavit of SDE Legal S. R. Gupta which has not been rebutted by a counter affidavit of the workman. The Management has also placed on record a photocopy of rules regarding the destruction of accounts record pertaining to the accounts audited by Indian Audit Department. As per these rules item no. b(xiv) the muster rolls and the register of muster rolls were required to be preserved after five years. The application for summoning that record was made in 2002 whereas the record pertained to the year 1992 to 1996, therefore, as per the rules the said record could expected to be preserved only upto ending November 2001 and not thereafter. Thus the application by the workman was made late. On record I do not find any evidence to show that the workman had served the Management continuously for 240 days in 12 calendar months preceding the date of termination of his services. The workman has, therefore, failed to show that he had served the Management for 240 days 12 months preceding the date of termination of his services.

The workman has next contended that the Management violated the provisions of Section 25-F of the Act as they did not issue him the notice nor they paid him the salary for the notice period. It is further his case that the Management retained his juniors while terminated his services. The Management has denied this claim of the workman. In his statement of claim he admitted that the Management had conducted the interviews twice in the year 1993 and then in the year 1995 and 1996. He further admitted that he was also called for the interviews but he was not selected for the post of Mazdoor on regular basis although he had been working for the Management since the year 1992 and had gained sufficient experience for the post. He has termed this action of the Management as a

violation of Section 25-H of the Act. In my opinion this is a baseless claim made by him. The admission of the workman itself shows that he had the notice of the process started by the Management to appoint the workman on regular basis. The Management fairly gave the chance to the workman to compete for the post more than once, but he failed to make the mark and therefore, he was not selected. I do not understand what more notice he expected from the Management before his disengagement. The Management in their reply, to the statement of claim, stated that the department had constituted a departmental selection committee which had conducted the interviews; and that the workman was relieved on the joining of regular daily rated Mazdoor in the Division. According to them it was because of that the workman was relieved on the joining of regular Mazdoors and the requirement of casual daily labourers did not remain. The workman has not produced any evidence to rebut this claim of the Management, rather, as stated earlier he himself admitted that the Management had conducted interviews for appointment of Mazdoor on regular basis.

After considering all the evidence available on record I am of the opinion that the workman has failed to show that his disengagement, by the Management was illegal and unjustified. What is proved is that the Management disengaged the services of the workman, who was a casual daily worker, only on the joining of regular Mazdoors appointed on the recommendation of Departmental Selection Committee. It is also proved that the workman was given more than one opportunity to compete for his regularization thus he had full notice of the process of selection undertaken by the Management, therefore, his disengagement was not unjustified and illegal. He is, therefore, not entitled to any relief. The award is passed in these terms. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का. आ. 4656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 340/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/435/99-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 340/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/435/99-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer.

Case I. D. No. 340/2K5

Registered on 16-8-2005

Date of Decision : 19-9-2006

Madan Lal C/o Shri N. K. Jeet, President, Telecom, Labour Union, Mohalla Hari Nagar, Lal Singh Basti Road, Bhatinda (Punjab). ... Petitioner

Versus

The General Manager, Telecom, Ferozepur (Punjab)
... Respondent

APPEARANCE :

For the Workman : Mr. N. K. Jeet, AR

For the Management : Mr. G. C. Babbar, Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 370 dated 18th July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide notification No. L-40012/435/99-IR(DU) dated 17th February, 2000 referred the dispute for the adjudication of this Tribunal which is in the following words :

"Whether the action of the Management of General Manager, Telecom, Ferozepur in terminating the services of Shri Madan Lal S/o Shri Ram Kandiana is legal and justified? If not, to what relief the workman is entitled to and from which date?"

After the reference was received notices thereof were issued to the parties. The workman appeared through

Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements and other documents on record. The Management filed the affidavit of their witness. The workman filed a rejoinder. The case was being listed for the affidavit of the workman but as stated earlier the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a Workman in the office of the J. T. O, Outdoor, Malout on 1st November, 1997 on a salary of Rs. 2138 and he served the Management upto 5th March, 1999, on which day his services were terminated without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Section 25-G and H. By their Written Statement the Management has denied all the claims made by the workman; and that the workman was neither engaged nor his services were terminated by them. According to them the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 1st November, 1997 and his services were terminated by them from 5th March, 1999, without following the provisions of Industrial Dispute Act. Since the workman has failed to substantiate his claim as made out by him, in the Claim Petition and the rejoinder, therefore, there is nothing on record to show that the Management had engaged the workman Madan Lal and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का. आ. 4657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 265/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/234/2001-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 265/2005) of the Central Government Industrial Tribunal-cum-Labour

Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/234/2001-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer.

Case I D. No. 265/2K5

Registered on 11-8-2005

Date of Decision : 19-9-2006

Parveen Kumar C/o Shri N. K. Jeet, 27349, Lal Singh Basti Road, Bhatinda (Punjab). Petitioner

Versus

The General Manager, Telecom, Bhatinda (Punjab)
. Respondent

APPEARANCE :

For the Workman : Mr. N. K. Jeet, AR

For the Management : Mr. G. C. Babbar, Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 363 dated 18th July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide notification No. L-40012/234/2001-IR(DU) dated 6th November, 2001 referred the dispute for the adjudication of this Tribunal which is in the following words :

“Whether the action of the Management of General Manager, Telecom, Bhatinda in terminating the services of Shri Parveen Kumar S/o Shri Sunder Mal is just and legal? If not, to what relief the workman is entitled to and from which date?”

After the reference was received notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of some documents

on record. The workman filed a rejoinder. The case was being listed for the affidavit of the workman but as stated earlier the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman has claimed that he was engaged as a Peon in the Legal Cell Office of the G. M. T., Hoshiarpur on 23rd March, 1998, on a salary of Rs. 1900 and he served the Management upto 28th February, 1999, on which day his services were terminated without notice, charge sheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to him and thereby further violated the provisions of Section 25-G and H. By their Written Statement the Management has denied all the claims made by the workman. According to them the workman was neither engaged nor his services were terminated by them; and that the workman was an employee of the Contractor. There is no evidence to show that he was engaged by the Management on 23rd March, 1998, and his services were terminated by them from 28th February, 1999, without following the provisions of Industrial Disputes Act, 1947. Since the workman has failed to substantiate his claim as made out by him, in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Parveen Kumar and they terminated his services illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का.आ. 4658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 338/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/441/1999-आई आर (डी यू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4658.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 338/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/441/1999-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer.

Case I. D. No. 338/2K5

Registered on 16-8-2005

Date of Decision : 19-9-2006

Miss Uma D/o Shri Raj Kumar, C/o Shri N. K. Jeet,
President, Telecom, Labour Union, Mohalla Hari
Nagar, Lal Singh Basti Road, Bhatinda (Punjab)
...Petitioner

Versus

The General Manager, Telecom, Bhatinda (Punjab)
... Respondent

APPEARANCE :

For the Workman : Mr. N. K. Jeet, AR

For the Management : Mr. G. C. Babbar, Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to her but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 373 dated 18th July, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but she is not present. This further shows that she has no interest left in the case.

The Govt. of India vide Notification No. L-40012/441/1999-IR(DU) dated 6th February, 2000, referred the dispute for the adjudication of this Tribunal which is in the following words :

“Whether the action of the Management of General Manager, Telecom, Ferozpur in terminating the services of Miss Uma D/o Shri Raj Kumar is legal and justified ? If not, to what relief the workman is entitled to and from which date ?”

After the reference was received notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed photo copies of the agreements

and other documents on record. The workman filed a rejoinder. The Management filed the affidavits of their witness. The case was being listed for the evidence of the workman, but as stated earlier the workman stopped appearing in the case. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman has claimed that she was engaged as a Typist in the office of AE Telecom, Civil, Ferozpur on 14th November, 1993 on a salary of Rs. 2138 and she served the Management upto 14th August, 1997, on which day her services were terminated without notice, charge sheet, inquiry and compensation. The Management retained her juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Section 25-G and H. By their Written Statement the Management has denied all the claims made by the workman. According to them the workman was neither engaged nor her services were terminated by them; and she was an employee of the Contractor. There is no evidence to show that she was engaged by the Management on 14th November, 1993, and her services were terminated by them from 14th August, 1997, without following the provisions of Industrial Disputes Act, 1947. Since the workman has failed to substantiate her claim as made out by her in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Miss Uma and they terminated her services illegally. The workman, therefore, is not entitled to any relief. The award is passed against her. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 नवम्बर, 2006

का. आ. 4659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 316/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-40012/468/1999-आई आर (डी यू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th November, 2006

S.O. 4659.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 316/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of Telecom Department and their workman, which was received by the Central Government on 8-11-2006.

[No. L-40012/468/1999-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer.

Case I. D. No. 316/2K5.

Registered on 12-8-2005

Date of Decision : 19-9-2006

Sarup Singh C/o Shri N. K. Jeet, President, Telecom, Labour Union, Mohalla Hari Nagar, Lal Singh Basti Road, Bhatinda (Punjab) ... Petitioner

Versus

The General Manager, Telecom, Hoshiarpur (Punjab) ... Respondent

APPEARANCE:

For the Workman : Mr. N. K. Jeet, AR

For the Management : Mr. G. C. Babbar, Advocate

AWARD

The workman continues to be absent. As per the record of the file the workman has not appeared in this Tribunal on any date fixed. Numerous notices were issued to him but there was no response. Ultimately a notice under R/C vide Postal Receipt No. 1547 dated 10th August, 2006 was issued to the workman. The R/C carrying the notice has not been received back unserved even after the expiry of 30 days which raises the presumption that the workman has received the notice, but he is not present. This further shows that he has no interest left in the case.

The Govt. of India vide Notification No. L-40012/468/1999-IR(DU) dated 13th March, 2000, referred the dispute for the adjudication of this Tribunal which is in the following words :

"Whether the action of the of General Manager, Telecom, Hoshiarpur in ordering disengagement/termination of services of Shri Sarup Singh, workman, engaged through Contractor Ashok Kumar Sharma w.e.f. 1-3-1999 is legal and justified? If not, to what relief the workman is entitled and from which date?"

After the reference was received, notices thereof were issued to the parties. The workman appeared through Authorized Representative and filed the Claim Petition. The Management appeared through Counsel and filed reply thereto. They also placed on record photo copies of the

agreements and other documents. The workman filed a rejoinder and also his affidavit. The Management filed the affidavit of Ashok Kumar, their SDO. The workman filed his additional affidavit and also the affidavit of his witness Kashmir Singh. The case was being listed for the evidence of the workman, but as stated earlier the workman stopped appearing in the case and was not available to the Management to test his affidavit by cross-examination. His conduct has shown that he has withdrawn from the prosecution of this case.

The workman claimed that he was engaged as a Cable Joiner in the office of the G. M. T., Hoshiarpur on 1st January, 1995, on a salary of Rs. 2138 and he served the Management upto 28th February, 1999 when his services were terminated without notice, chargesheet, inquiry and compensation. The Management retained his juniors and also recruited fresh hands without providing opportunity to the workman and thereby further violated the provisions of Section 25-G and H. By their Written Statement the Management has denied all the claims made by the workman. It is stated by them that the workman was neither engaged by them nor his services were terminated by them. According to them the workman was an employee of the Contractor. In support of their Written Statement they have filed the affidavit of their witness whereas the workman filed his affidavit, but did not appear to stand to the cross-examination of the Management nor produced any other evidence to support his claim. There is no evidence to show that he was engaged by the Management on 1st Jan., 1995 and his services were terminated by them from 28th Feb., 1999, without following the provisions of Industrial Disputes Act, 1947. Since the workman has failed to substantiate his claim, as made out by him in the Claim Petition and the rejoinder, therefore, there is nothing to show that the Management had engaged the workman Sarup Singh and they terminated his service illegally. The workman, therefore, is not entitled to any relief. The award is passed against him. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 9 नवम्बर, 2006

का.आ. 4660.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-II, के पंचाट (संदर्भ संख्या 26/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-11012/19/97-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th November, 2006

S.O. 4660.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-II; now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workman, which was received by the Central Government on 8-11-2006.

[No. L-11012/19/97-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT MUMBAI

PRESENT:

Shri A. A. Lad, Presiding Officer

Reference No. CGIT-2/26 of 2004

(Old Reference CGIT-2/43 of 1998)

Employers in relation to the Management

OF

Air India Limited

The Director,
M/s. Air India Limited,
Air India Building,
Nariman Point,
Mumbai-400021

AND

Their Workmen

Shri N. M. Bansode,
At and Post Rethare (Bk),
Taluka Karad,
Distt. Satara

APPEARANCE:

For the Employer : Mr. Lancy D'Souza
Representative

For the Management : Mr. A. D. Nimbalkar,
Advocate

Date of passing of Award : 1st September, 2006

AWARD

I. The Government of India, Ministry of Labour by its Order No. L-11012/19/97/IR(C-I) dated 13-4-1998 in exercise of the powers conferred by clause (d) of sub-section (I) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"whether the action of the Management of M/s. Air India Ltd. in discontinuing the services of Mr. N. M. Bansode ex-casual labour w.e.f. 30-6-1995 without observing the provisions of I. D. Act, 1947 is legal

and justified ? If not, what relief the workman concerned is entitled to ?”

2. Workman Shri Bansode was engaged in the year 1991 as casual labour with Air India Ltd. in the cargo section. By statement of Claim (Ex-7) workman averred that after rendering satisfactory services by the letter dt. 7-4-95, he was selected on the post of cleaner/loader/handyman/peon/safaiwala in the IFS Department subject to medical fitness. It is pleaded that workman was declared unfit in the medical examination vide letter dt. 27-6-96 and consequently his services were terminated with immediate effect and on receipt of that letter it is pleaded the workman approached the management company and the ophthalmic surgeon and panel doctor of Air India who in turn opined that he was fit to do the work. However the management indulged in unfair labour practice neglected the workman therefore the workman approached the ALC(C) who in turn tried conciliation but failed. It is pleaded that workman had completed 240 days and the work which he was doing was permanent in nature and therefore his termination was illegal. It is pleaded the union filed writ petitions and thereafter the reference was referred by the Government. It is contended discontinuation of the services of workman was illegal and therefore the management be directed to reinstate him with full back wages.

3. Management company resisted the claim of workman by filing written statement (Ex-8) contending that in the schedule of reference by the Ministry dt. 23-2-93 in reference No. 17 of 1993 workman was party alongwith other casual workers. The Tribunal by the Award dt. 23-10-96 dismissed the same against which Writ Petition No. 430 of 1998 was preferred. However the same came to dismissed on 11-2-2000. Therefore, the Tribunal again cannot entertain the contentions already adjudicated and upheld by the High Court consequently cannot give relief to the workman in the reference hence reference deserves to be rejected. Management has denied that the termination of workman amounts to retrenchment contending that as per the directions of the Hon'ble High Court in Writ Petition No. 99 of 1992 and 1110 of 1993 the workers found medically fit were regularised. However workman Bansode since found medically unfit was discontinued in June 1995. According to management, workman's claim being devoid of substance be dismissed in limine.

4. On the basis of the pleadings and in the light of the decisions my Learned Predecessor framed issues (Ex-9) and in that context both the parties led oral and documentary evidence.

5. This is second round of litigation before this Tribunal as initially i.e. in first round my Ld. Predecessor passed award dt. 23-12-2002 observing Reference not maintainable relying on copy of W. P. No. 430 of 1998 holding subject matter involved in this reference is already covered in W. P. No. 430 of 1998 and treat this proceeding

as res judicata. Said order was challenged by Opposite party by filing W. P. No. 528 of 2004 where Hon'ble High Court set aside said observations and remitted reference back for fresh trial. On the basis of that, this reference came before this Tribunal. After remission of the reference before this Tribunal both parties appeared and by joined purshis, submitted that they do not want to lead fresh evidence. Then second party filed Written Arguments at Ex-70 and it was replied by first party's Advocate. In view of that issues framed by my Ld. Predecessor at Ex-9 are answered by me as follows :

| Issues | Findings |
|---|------------------|
| 1. Whether the action of the management of M/s. Air India Ltd. in discontinuing the services of Bansode, ex-casual labour w.e.f. 30-6-95 is legal and justified ? | Yes |
| (a) Whether discontinuing of the services of Bansode amounts to retrenchment ? | No |
| (b) If yes, whether the provisions of the Industrial Disputes Act of 1947 were not followed before retrenchment ? | Does not survive |
| (c) Whether in view of the decision in Writ Petition No. 99 of 1992 and 1110 of 1993 and the No. L-11011/2/92-IR (Misc) dtd. 23-2-93 and the decision thereon the present reference is not maintainable ? | Does not survive |
| 2. If not, what relief the workman is Entitled to ? | Does not arise |

REASONS :

6. The reference referred by the Central Government, Ministry of Labour is regarding discontinuation of service of Mr. Bansode w.e.f. 30-6-95 questioning whether it was done by following provisions of I. D. Act and whether it is justifiable ? In support of that First Party placed reliance on evidence which was already recorded i.e. evidence of Workman himself produced in the form of affidavit at Ex-19 wherein he reiterated his claim and case stating that, he was illegally terminated. In the cross examination he stated that he joined first party on 4-9-91 without appointment order. He stated that, he was not interviewed. He was appointed without medical test. Then he applied for interview and his interview was taken on 16-3-93. Thereafter he was sent for medical examination and on 30-6-95 he was informed that, he was not medically fit for the post. Thereafter, he contacted Management by several correspondences, but was not considered. Then he placed reliance on affidavit of Thakur filed at Ex-5 who gave the story of employment of second party with first party and the procedure adopted by the first party in employing

170 employees as per the directions of High Court. This witness does not speak about second party's entitlement over the post. Then he placed reliance on evidence of Dr. Oomrigar who is examined at Ex-33 who admitted certificate Ex-11/1. However in the cross this Doctor says that, there is no treatment to the disease called as Macular Degeneration which means degeneration of the principal main-vision area of the retina. He further state that, such a disease progresses slowly. He admitted that Ex-28, was issued by him after examining Mr. Bansode. He stated that, when he examined Bansode there was deterioration in vision. Then he placed reliance on evidence of Dr. Anup Rajadhyaksha who is examined at Ex-40 who is MBBS Karnataka University, Dharwad. He states that, Eye vision of Bansode was absolutely normal with glasses. However in the cross this witness states that he is not a panel doctor of Air India and Bansode visited to him, in personal capacity. He states that, he has no idea regarding medical standard applicable to the employee recruited in the Air India. He admits that Ex-41 mentions that there is defect in the vision of Bansode. He states that, he referred Bansode to Dr. Henang Kopikar. In layman's term, the defect in the workman is called as 'Stationary Night Blindness' He also placed reliance on evidence of Dr. Kopikar who is examined at Ex-42 who opined that Bansode is fit to work as loader. However in the cross examination he states that Bansode was suffering from dystrophy which is related to retina and it affects on vision. He also states that, night blindness occur due to dystrophy which is not curable. He also admits that he has no idea about the medical standard to the recruitment to Air India. Whereas first party place reliance on affidavit of Dr. Gajre who was recalled again and was cross examined by the second party's advocate. He states that he is not specialist in ophthalmology. In the cross examination he stated that the disease of Bansode was progressive. His eye sight was normal. After leading above evidences both parties closed evidence by filing purshis. In fact the above recorded evidence is old one which is relied by both even at this stage.

7. So here case before us is a case of rejection of second party workman Bansode on medical ground when he was interviewed at the High Court's directions. According to first party, second party, Bansode, since was not fit for the post was not appointed and as such question of his retrenchment or his termination or question of his reinstatement does not arise and following provisions as required in retrenching/terminating employee. Whereas, case of second party is that, he was purposely declared not fit and it is sort of retrenchment which was followed without due procedure of law.

8. There is one copy of order of Hon'ble High Court of Writ Petition No. 9 of 98 where observations are made as follows :

"On perusal of Medical report it is clear that petitioner was found to be unfit. That being so, we don't find

any justification in the grievance of the petitioner and we hold that, respondent No. 1 was justified in not regularising services of Petitioner".

9. So this observation clearly reveals that, if a employee found not fit in that case, such a employee cannot claim regularisation in service.

10. Second Party claim that, he is fit. In fact defence of second party is now of two fold. Initially he states that he was retrenched wrongly without following procedure. Another stand is that he is fit still he was purposely declared unfit. As far as question of fitness is concerned, no specification is made out by the second party and proved by him that, what standard he possesses to qualify as a fit employee ? From the various medical references stated above clearly show that, he was having eye sight problem pertaining to retina. It is proved that second party, Bansode is having sight defect which is called as 'Night blindness' and it was progressive which is not curable. Only because his eyesight was normal it does not overtake the night blindness of the second party as his duty may be in 2nd shift or 3rd shift. If he is posted in 2nd or 3rd shift that generally comes in night then, there will be problem for him. Besides, doctors examined him namely Dr. Kopikar and Dr. Rajadhyaksha admitting Dr. Oomrigar that position. When second party was having that type of defect, question arises how it can be said that he was fit ? After all it is the decision of the first party who are on panel to decide on the fitness of the candidate. If the doctors on panel decided fitness of the candidate in that case, only remedy to such a candidate is to accept the said decision. Since it is the decision of experts. It is to be noted that, initially he was not recruited by following due process of law when number of employees filed writ petition, Hon'ble High Court gave direction to first party to take their interview in which second party was involved. And that time his medical examination was done and that time he was declared unfit. When he was declared unfit, question of following provision of it before implementing said decision does not arise. Here it is to be noted that second party was not retrenched or terminated as alleged by him. In fact from the case and evidence made out by him, it reveals that, he was not selected by the first party when he was interviewed declaring not fit in medical examination when he was declared not fit, question arises how it can be treated retrenchment or termination ? In fact it is a simple non selection of second party on particular post. He cannot claim he was retrenched or terminated. When he cannot claim retrenchment or termination, question of following procedure of law does not arise.

11. As far as medical evidence is considered, as it is discussed above and his own doctor has admitted that, he has night blindness which is not curable also. When that is the position, in my considered view second party cannot claim that he was purposely ignored and illegally not

selected. In fact, non selection cannot become subject matter of reference as happened in this case. Employer has right to select the suitable candidate in its employment. One cannot put condition on the employer to select particular employee of particular type. In fact that is the prerogative of the employer to select candidate of its choice. In the instant case, second party found not fit and so he was not selected. According to me the case of the second party is simple of non selection in the employment by the first party which cannot be adjudicated in the proceeding like reference as it cannot become subject matter of the reference.

12. In view of discussions made above, I conclude that, second party has no reason to agitate the point of his non selection in the employment of first party. So I answer above issues to that effect and pass following order :

ORDER

Reference is rejected.

Mumbai

1-9-2006

A. A. LAD, Presiding Officer

नई दिल्ली, 9 नवम्बर, 2006

का. आ. 4661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडो रशियन एविएशन लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, नासिक के पंचाट [संदर्भ संख्या (आई डी ए) नं. 43/1999] को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-11-2006 को प्राप्त हुआ था।

[सं. एल-11012/44/1999-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th November, 2006

S.O. 4661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. No. (IDA) No. 43/1999] of the Labour Court, Nashik now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indo Russian Aviation Pvt. Ltd. and their workman, which was received by the Central Government on 8-11-2006.

[No. L-11012/44/1999-IR (C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI M. M. AGRAWAL, PRESIDING OFFICER, LABOUR COURT, NASHIK

Reference (IDA) No. 43/1999

BETWEEN

Indo Russian Aviation Limited
Through their Chief Executive Officer,
Ozar Township, District Nashik First Party

AND

Shri Chagan A. Vidhate,
At & Post-Janori,
Taluka : Dindori, District Nashik Second Party

PRESENT

Shri M. M. Agrawal, Judge

APPEARANCES

Shri E. S. Ashokan Advocate for first party

Shri R. M. Jadhav Advocate for second party

AWARD

(26-9-2006)

1. This reference has been sent by the Central Government order Section 10 of the Industrial Disputes Act, 1947 for adjudication to decide whether the action of the first party in terminating the services of second party with effect from May 1998 is legal and justified, if not to what relief he is entitled to.

2. It is not disputed that the first party is a Public Limited Company in which majority of the shares are held by Hindustan Aeronautics Limited and some shares by Russian Partners. It is controlled by the Central Government of India. The first party deals with aviation spares and other commercial activities.

3. It is the case of the second party that he was qualified in advance diploma in computer studies. Hence, the first party engaged his services since November, 1994. After serving for 4 years, he demanded fitment and other allowances and also submitted memorandum on 5-5-1998 claiming facilities of permanent employee, due to which the first party got annoyed and orally terminated his services.

4. The second party submitted that he was operating fax, attending telephone calls, punching data and doing other work under the directions of the Chief Executive Officer. His job of permanent nature and he was doing the said job continuously from November, 1994 till 5-5-1998 when his services were orally terminated. He used to sign the muster rolls kept in the office. He was being paid salary of Rs. 2300 per month. He has completed more than 240 days in every year of service. However, the first party terminated his service without paying retrenchment compensation or notice pay in contravention of Section 25 F of Industrial Disputes Act. Hence, the second party raised the dispute and claimed reinstatement with continuity of service and full back wages.

5. The first party opposed the claim vide written statement Ex. C-4. It alleged that the reference made by the Central Government is not tenable as there was no dispute existing between the parties. The first party is not an industry as per Section 2 (j) of Industrial Disputes Act as it is not profit making concern. The object of the first party is to

modernise and re-equip of all types of Aircraft on the basis of update design and technology. It is joint venture company established by the Government of India and Government of Russia for technical co-operation in the filled of military Aircraft. It does not undertake continuous organisation activities. Its activities are exclusively the function of defence requirements of the country and not for any private or commercial business activities. It has no permanent staff. Its employees are on deputation from H.A.L. Aircraft Division, Nashik and therefore, it is not an industry within the meaning of Industrial Disputes Act. Hence, the reference is not tenable.

6. The first party contended that the services of the second party were availed for data entry on day today basis. Hence, no letter of appointment was issued to the second party. The job of punching data is not a job of continuous nature and the second party was not employed on permanent basis. The second party remained absent for long time and after his unauthorised absence when he reported to his duties, there was no requirement of any data entry. Hence, he was told that his services will be availed as and when requirement would arise. So there is no question of payment of compensation or notice pay. The provisions of Section 25 F of the Industrial Disputes Act, 1947 are not applicable. This Court has no jurisdiction to entertain the reference. Hence, the second party is not entitled to any relief and therefore the claim of second party is liable to be rejected with costs.

7. On the above pleadings, my learned predecessor framed the following issues at Ex. O-7 and I have recorded my findings followed by reasons.

| ISSUES | FINDINGS |
|---|---------------------------------------|
| 1. Whether the first party/employer is "industry" as defined under the Industrial Disputes Act ? | Yes |
| 2. Whether the second party/workman proves that he was employed with first party as alleged ? | Yes |
| 3. Whether this Court has got jurisdiction to adjudicate the present matter ? | Yes |
| 4. Whether the services of the second party were terminated ? If yes, whether the termination was illegal/unjustified ? | Yes termination was illegal. |
| 5. Whether the second party is entitled to the reliefs as prayed for ? | Yes |
| 6. What award ? | As per final order. |

REASONS

8. As to issue No. 1 : (Whether first party is an Industry). The first party vehemently opposed the

reference on the ground that it being a joint venture of Government of India and Government of Russia, to make the defence requirement of the country, it is not running private or commercial activities and therefore it is not an industry. The first party examined its witness Shri Naresh share at Ex C-9 whose evidence shows that the first party deals in supplying spare parts to Air Force and other defence companies. In cross examination, he admitted that the first party is a Private Limited Company in which some Russian companies are having some shares. The spare parts produced by the first party are sold through agents to defence. He specifically admitted that the first party shows good profits in its business. The admission of the witness of the first party proves that the first party is purely a commercial establishment.

9. The second party had issued a letter dated 5-5-98 vide Ex. U-9 demanding the benefits of permanent employees. In that letter he has specifically mentioned that the first party was earning profit of Rs. 1 crore per year. The first party issued reply to the notice of the second party wherein it is specifically mentioned that the first party is a private limited company. The first party has not produced any documentary evidence on record to prove that it does not earn profit and deals with defence department of the country. I therefore hold that the first party is an industry within the meaning of Industrial Disputes Act. Hence, I answer issue No. 1 in the affirmative.

10. As to Issue No. 2 : (Employment of second party) The second party has come with the case that he was employed by the first party. The first party had allotted him the work of operating fax, attending telephone calls, punching data etc. Not only this the second party was directed to attend official work at Delhi. The second party used to attend the office at various places as per the directions of the first party. While the first party has come with the case that the work of second party was purely of daily wages for some data entry operations.

11. Second party has specifically stated that he was engaged by the first party in November, 1994 and he worked there continuously for about 4 years. The witness of the first party admitted in cross examination that the company used to send the second party daily for official work. He further admitted that second party was in continuous service of the first party for 3 to 4 years. In cross-examination also he specifically admitted that the second party worked with the first party for 3 and half years. He further admitted that the first party used to send the second party on various duties and therefore movement orders were issued to him. He also admitted that the second party was working as per Ex U-17.

12. Ex. U-17 is a certificate issued by the first party's Chief Executive Officer wherein it is specifically mentioned that the second party was working with the first party as a computer operator since 1994. The second party was

responsible for computer work in various softwares stated in the certificate. The document Ex. U-17 as well as the admission given by the witness of the first party prove that the second party was in regular employment of the first party who worked continuously for 3 and half years till he was terminated by the first party. Hence, I answer issue No. 2 in affirmative.

13. As to issue No. 3 : (Jurisdiction) The first party has challenged jurisdiction of this Court on the ground that the first party is not an industry and the second party was working purely on daily wages and he himself remained absent for long time. In the above discussion, I have held that the first party is an industry and the second party was in continuous employment of the first party who raised the dispute alleging illegal termination of service and Govt. of India has sent this reference to this Court for adjudication of the said dispute. Therefore, this Court has jurisdiction to entertain and decide the reference. Hence, I answer the issue No. 3 in affirmative.

14. As to issue No. 4 and 5 : (Legality of termination & relief) the second party has specifically stated that he was serving with the first party for continuous period of 3 to 4 years, but the first party was not making him permanent. He several times requested the first party to make his services as permanent and when he submitted memorandum dated 5-5-1998 demanding the benefits of permanency, the first party got annoyed and orally terminated his services. The letter dated 5-5-98 is filed at Ex. U-9 which fully supports the case of the second party. By the said letter, the second party had requested the first party to absorb him on permanent basis as per assurances given to him. Its copy was also sent to the Chairman of first party at Bangalore. It seems that after getting this letter, the first party orally terminated the services of second party. The second party therefore issued a notice vide Ex. U-13 and U-15 claiming reinstatement. The first party replied the notice vide Ex. U-14 and U-16. Contents of the reply Ex. U-14 and U-16 are contrary to the evidence given by the witness of the first party. In the reply Ex. U-14 and U-16, the first party tried to impress that the work was allotted to the second party subject to availability of the work. In para 5 of Ex. U-14, the first party alleged that the second party did not make enquiry whether the job is available for him or not as he was engaged on daily wage basis. In para 6, it is alleged that, the conduct of the second party by not reporting to the first party to seek job on daily wages also creates a doubt regarding his ulterior motive of parting of secret defence oriented data of the company. In para 7, the second party was called on 29-5-1998 to make enquiry whether the job was available or not. It was never the case of first party that the second party was engaged subject to availability of the work and for that the second party was required to make enquiry about availability of the work. On the contrary, the witness of the first party has specifically admitted that the second party was in continuous service for 3 to 4 years.

15. The second party had specifically stated that the first party was maintaining muster roll and he used to sign muster roll. The second party had moved the application Ex. U-4 directing the first party to produce muster rolls and T.A. claim bills. The Court directed the first party to produce the same. However, they are not produced. No reasons are stated by the first party for not producing those documents. The second party therefore filed xerox copies of muster rolls, Travel Expenses, movement orders etc. The witness of first party says that he does not know whether the muster rolls are maintained or not. In cross examination he admitted that the employees are paid monthly salary and for that purpose, the first party was maintaining accounts. In view of this admission, the first party was in possession of the best evidence to produce in the Court and to prove that the second party was not in continuous employment. In view of this, the contents of reply issued by the first party alleging that the second party was required to make enquiry about the availability of work are contrary to its own case.

16. It is apparent from the above discussion that the second party was in continuous service and he was orally terminated from the service as he demanded the benefits of permanency. It is admitted fact that the first party has not paid any retrenchment compensation and notice pay before termination. Shri Jadhav, the learned Counsel for the second party contended that oral termination without complying the provisions of Section 25 (F) is illegal. In support he relied in (1) Devendra Pandurang Pandore Vs. Chief Executive Officer reported in 2005 (1) Bom. L. C-272 (Bombay High Court), (2) Bank of Baroda Vs. Ghemarbhai Harjibhai Rabari reported in 2005 (2) Bom. L.C.-210 (Supreme Court), (3) Executive Engineer B & C department, Miraj, Sangli and Another Vs. Riyan Nisay Daryawadi reported in 2006 (109) FLR-547 (Bombay High Court), (4) Jairaj N. Shetty Vs. Union of India reported in 2005 III CLR-106 (Bombay High Court), (5) R. M. Yellatti Vs. Assistant Executive Engineer reported in 2005 III CLR-1028 (Supreme Court), (6) Fashion Exim India Private Limited Vs. Chintamani Ambolkar and Another reported in 2005 (105) FLR-988 (Bombay High Court), (7) Manager, R.B.I. Bangalore Vs. S. Mani and Others reported in 2005 (105) FLR-1067 (Supreme Court). All these rulings fully support the case of the second party.

17. As against this, Shri Ashokan, the learned counsel for the first party submitted that second party was engaged purely on temporary basis, he was not appointed as per regular appointment basis, he was not regular employee. So even if he has worked for more than 240 days in every year, he is not entitled to claim reinstatement and back wages. In support he relied on Executive Engineer, Rehabilitation Division, Pune, Zilla Parishad Pune, Vs. Ramchandra Baban Jadhav and Another reported in 2006 (4) Mh. L.J.-517 (Bombay High Court).

18. The contention of Mr. Ashokan Advocate is not acceptable. The ruling cited by him is not applicable to the facts of this case. In the cited case, peon was appointed purely for 6 months. It was held that his appointment was not by following the regular procedure and his appointment was for a fixed period. The Court held that the appointment of the peon was from back door entry.

19. In the present case, it is not the case of the first party that the appointment of the second party was illegal or through back door entry. On the contrary, the first party issued certificate vide Ex. U-17 certifying that the second party was working as a computer operator since 1994 in various softwares. The first party nowhere stated that the appointment of the second party was for a specified period or that appointment of second party was illegal. It's case is simply that the second party was engaged on daily wages for data entry.

20. It is proved by the second party that he has worked continuously for 3 and half years and therefore he is entitled to protection under Section 25 F of the Industrial Disputes Act, 1947. The rulings cited by Shri Jadhav Advocate (cited supra) support the case of the second party for his claim of reinstatement and back wages, because his services were terminated by the first party without following the provisions of Section 25 F of the Industrial Disputes Act, 1947. The termination of second party was therefore illegal and hence, the second party is entitled to reinstatement with continuity of service.

21. The second party claimed full back wages. In cross examination he stated that he was getting Rs. 2200 to Rs. 2500 per month. The Court had directed first party to produce the muster rolls and T.A. Bills of the second party. The first party's witness admitted in cross examination that the first party is maintaining accounts of the salary paid to its employees.

22. In spite of the directions of the Court, the first party did not produce the accounts. The witness of the first party admitted in cross examination that the first party is making good profit in its business. I therefore do not find any reason as to why second party should not be granted full back wages. Since the second party's evidence shows that his monthly wages were not fixed as he was getting Rs. 2200 to Rs. 2500 per month, I award back wages @ Rs. 2000 p.m. to the second party from the date of termination till his reinstatement. I therefore answer issue No. 4 and 5 accordingly and pass the following order :

ORDER

1. It is declared that the services of the second party were terminated illegally by the first party.

2. The first party is directed to reinstate the second party with continuity of service and pay him back wages at the rate of Rs. 2000 p.m. from the date of termination i.e. May 1998 till he is reinstated in the service.

3. This award be sent for publication to the Central Government.

Nashik

Date : 26-9-2006 M. M. AGRAWAL, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2006

का. आ. 4662.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बजाज इलेक्ट्रिकल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में राष्ट्रीय औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या कंप्लेंट नं. एन टी बी-10 ऑफ 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2006 को प्राप्त हुआ था।

[सं. एल-42025/5/2006-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 10th November, 2006

S.O. 4662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. Complaint No. NTB-10 of 2006) of the National Industrial Tribunal, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bajaj Electricals Limited and their workman, which was received by the Central Government on 10-11-2006.

[No. L-42025/5/2006-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL, MUMBAI

PRESENT

Justice Ghanshyam Dass, Presiding Officer

Complaint No. NTB-10 of 2006

(Arising out of Ref. No. NTB-1 of 1997)

PARTIES

Mr. V. Subramanian : Complainant

V/s.

M/s. Bajaj Electricals Ltd. : Opponent

APPEARANCES

For the Complainant : Complainant present in person

For the Opponent : Mr. Paranjpe, Adv.

State : Maharashtra

Mumbai, dated the 19th day of October, 2006

AWARD

1. Mr. V. Subramanian has moved the instant complaint under Section 33-A of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) alleging that as per usual practise of M/s. Bajaj Electricals Ltd. (hereinafter referred to as the Company) an employee is awarded after completion of 15 years of service but the Complainant has not been awarded and the Company has not issued any notice of change under Section 9-A of the Act. He has therefore prayed that the Tribunal be pleased to hold and declare that the change in service conditions of the Complainant effected by the Opponent Company by not awarding him for the completion of 15 years of service is illegal and void ab-initio.

2. The matter came up for hearing today before me. The Complainant himself has moved an application in writing that he has settled down the matter amicably with the Company and hence, he may be allowed to withdraw the complaint.

In these circumstances, the request is allowed and the complaint is dismissed as prayed.

Justice GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4663.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार किरलेपेल माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/13 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-29012/74/2002-आई आर (एम.)]
एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/13 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2 Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kirlapale Mines and their workman, which was received by the Central Government on 13-11-2006.

[No. L-29012/74/2002-IR(M)]
N. S. BORA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT**

A. A. LAD, Presiding Officer

Reference No. CGIT-2/13 of 2003

Employers in relation to the management of M/s. Ahiliabai Sardesai, Kirlapale Mines, Post : Kirlapale Mines, via Sarvordem, Tal. Sanguem, Goa.

AND

Their Workmen

Shri Vasu Dessai,
R/o : Ghot Morod, Kakoda,
Quepem, Goa.

APPEARANCE

For the Employer : Mr. Girish K. Sardesai,
Mr. L. V. Palekar,
Advocates.

For the Workmen : Absent.

Date of passing of Award : 26th September, 2006

AWARD

1. The Government of India, Ministry of Labour by its Order No. L-29012/74/2002 (IR) (M) dated 24th February, 2003 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of M/s. Ahiliabai Sardesai, Goa in dismissing Shri Vasu Dessai, Helper-I of Kirlapale Mines from services w.e.f. 9-7-1999 is legal and justified? If not to what relief the workman is entitled to?"

2. To support the subject matter involved in the reference, 2nd Party, workmen filed Statement of Claim at Exhibit 6 which is replied by First Party by filing written statement at Exhibit 13. On the basis of the pleadings issues were framed at Exhibit 28 and matter was posted for recording evidence. Though fresh notices were served vide Exhibits 30 and 31, on both, Workman did not attend the proceedings. It reveals that Workman is not interested in proceeding with the reference. So reference is disposed of for want of prosecution. Hence, the order :

ORDER

Reference is disposed of for want of prosecution.

Camp at Goa,
26th September, 2006

A. A. LAD, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4664.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई. ओ. सी. एल. (पानीपत रिफाइनरी प्रोजेक्ट) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या आई डी. 571 ऑफ 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-30012/53/2000-आई आर (एम.)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. ID 571/2005) of the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IOCL (Panipat Refinery Project) and their workman, which was received by the Central Government on 13-11-2006.

[No. L-30012/53/2000-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case No. LD. No. 571/2005

Registered on 23-08-2005

Date of Decision 26-09-2006

Randhir Singh C/o Shri Karan Singh,
Secretary Bhartiya Mazdoor Sangh,
Lal Bati Chowk, Panipat.

.....Petitioner

Versus

Executive Director,
IOCL (Panipat Refinery Project),
Bohali, Panipat

.....Respondent

APPEARANCE

For the Workman : Mr. Karan Singh, AR

For the Management : Mr. Vivek Kaushik,
Advocate

AWARD

The workman is not present. Management appears through Counsel.

The representative of the workman has made the statement that the workman has been recruited in a public

sector undertaking at Sonipat, therefore, he is not interested to prosecute this petition. The record of the file shows that the workman hardly appeared in the case in personal and it is only his representative who was appearing for him. Despite directions the workman has not appeared even today and nor he has produced any evidence. This supports the contention of the representative of the workman. Another factor which leads to this conclusion is the failure of workman to deposit the diet expenses of the witness summoned at his request. The court is, therefore, satisfied that the workman is no more interested to follow this case.

On record I find the claim statement of workman, his affidavit, reply of the Management, affidavit of their witness, statement of the workman and a large number of photocopies of documents which have not been proved so far. The workman was still leading the evidence and Management was yet to produce their evidence. Therefore, the evidence produced so far can not be taken into consideration. Since the Management has denied the claim of workman and the workman has failed to produce the evidence to support his claim that he had served the Management from 23rd Sep., 1994 till 30th Sep., 1995, as steno clerk, on a salary of Rs. 1450 pm and his termination from service was done by the Management, in violation of provisions of Industrial Disputes Act 1947, he is, therefore, not entitled to any relief. The reference of the appropriate govt. received vide No. L-30012/53/2000/IR(M) Dated 30 August, 2006, is answered in these terms. The award is passed in these terms. Let a copy of this award be sent to the appropriate govt. for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम./एस. मैसूर मिनरल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या सी. आर. 21 ऑफ 99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-29012/177/1998-आई आर (एम.)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. C.R. 21/99) of the Central Government Industrial Tribunal cum Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of M/s. Mysore Minerals Ltd. and their workman, which was received by the Central Government on 13-11-2006.

[No. L-29012/177/1998-IR(M)]
N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 31st OCTOBER, 2006

PRESENT

Shri A. R. SIDDIQUI, Presiding Officer

C. R. No. 21/1999

I Party

Shri K. N. Mahadeva,
S/o Madegowda,
Hura Post,
Nanjandug Taluq.,
MYSORE

II Party

The Chairman & Managing
Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
BANGALORE-560 001

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-29012/177/98/IR(M) dated 01-03-1999 for adjudication on the following schedule :

SCHEDULE

"Whether the termination of Shri K. N. Mahadeva, Mazdoor Asuli Manganese Mines by the management of M/s. Mysore Minerals Ltd. is justified? If not, to what relief the disputant is entitled to?"

2. When the matter stood for Evidence on Domestic Enquiry, it was taken up before the Lok Adalat and both the parties appeared and have settled the matter out of court and filed a Joint Memo to pass award accordingly in terms of the said memo. Hence, the following award.

"The Management is directed to reinstate the first party into service without any back wages, however with continuity of service forthwith. The above said Joint Memo shall form part of the Award."

(Dictated to UDC, transcribed by him, corrected and signed by me on 31st October, 2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेटरली आईरन माइन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या आई. डी. नं. 80 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-26012/3/2002-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4666.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 80/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Baitarani Iron Mines and their workman, which was received by the Central Government on 13-11-2006.

[No. L-26012/3/2002-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri N. K. R. Mohapatra, Presiding Officer
C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 80/2002

Date of Passing Award- 16th October 2006

BETWEEN

The Management of the Agent,
Baitarani Iron Mines of Dr. Sarojini Pradhan,
At./P.O. Barbil, Dist. Keonjhar,
Orissa-758 035

... 1st Party-Management

AND

Their Work Woman, Smt. Tulsi Munda,
W/o. Duka Munda, At./P.O. Birkela,
Via, Joda, Distt. Keonjhar, Orissa.

... 2nd Party-Work Woman

APPEARANCES

Authorised Representative : For the 1st Party—
Management

None : For the 2nd Party—
Work-Woman.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the

following dispute for adjudication vide their Order No. L-26012/3/2002 IR (M), dated 18-10-2002 :—

“Whether the action of the Management of Baitarani Iron Mines of Dr. S. Pradhan, At./P.O. Barbil, Distt. Keonjhar, in terminating the services of Smt. Tulsi Munda, W/o. Duka Munda, At./P.O. Birkela, Via Joda, Distt. Keonjhar, PRW w.e.f. 19-4-2000 without serving any notice and without following the provisions of I.D. Act, 1947 is justified? If not, what relief the workman is entitled to?”

2. Pursuant to the above reference the workman submitted his Statement of Claim alleging that even though she was working continuously in the mines of the Management No. 1 from 1989 she was terminated without notice on 19-4-2000 and as such she is entitled to be reinstated in service with full back wages etc. In reply to the above the Management filed his written statement stating that the workman was never in continuous employment nor she was a regular employee. According to him the workman was working as a piece rated worker intermittently depending upon the requirement of work and that during his non-engagement period she also used to work in some other mines. It is further contended by the Management that for the reasons best known, the workman did not turn up for his engagement from 19-4-2000 onwards and as such there was no fault on the part of the Management nor the workman is entitled for any relief under Section 25(F) of the I.D. Act, his engagement not being continuous.

3. Be it noted here that the record shows that after communication of the letter of reference by the Government the workman simply sent her claim statement by post but thereafter did not take any further step to establish her case by withholding himself from attending the Court. The record further shows that she has also failed to respond to the Court's notices sent several times to ensure her presence. In view of the above, there is no other alternative but to hold that the workman is perhaps no more interested in the case.

4. Accordingly the reference is disposed of.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स रविन्द्र राक्स और कूडिंग प्लाट्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एरनाकुलम, कोची के पंचाट (संदर्भ संख्या आई. डी. 50 ऑफ 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-29012/1/2005-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D 50/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, Kochi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Ravindra Rocks & Cruding Plants and their workman, which was received by the Central Government on 13-11-2006.

[No. L-29012/1/2005-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri P. L. Norbert, B.A., LL.B., Presiding Officer

(Friday the 27th day of October, 2006/5th Kartika, 1928)

I.D. No. 50/2006

(I.D. 2/2005 of Industrial Tribunal, Alapuzha)

Workman/Union : 1. T.G. John, Pallickal House
Chengarumala, Vaypur,
Pathanamthitta

2. Jolly S.P.
Ozhukuparambil House,
Mannar Puzhickol, Kaduthuruthi,
Kottayam.

3. Sabu P.C.
Palekandam House, Mannar,
Poozhickal P.O.,
Kaduthuruthi,
Kottayam.

Adv. Shri T. N. Maheswaran Pillai

Management :

Shri S. Raveendran
M/s. Ravindra Rocks & Cruding
Plant, Exhumattur,
Kerala

Adv. Shri P. Haridas

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

“Whether the demand of the workman employed by M/s. Ravindra Rocks and Crushing Plant, Ezhumattoor, Distt. Pathanamthitta, Kerala for revision of wages is justified? If so, to what relief the workmen are entitled and from what date?”

"Whether the demand of the workmen employed by M/s. Ravindra Rocks and Cruding Plant, Ezhumattoor, Distt. Pathanamthitta, Kerala for higher rate of bonus for the year 2003-04 is justified ? If so, to what relief the workmen are entitled to ?"

2. When the matter came up for adjudication, the parties expressed their willingness to settle the matter amicably. Hence the reference was taken up in Adalat and was settled. The terms of settlement are incorporated in the compromise signed by the parties in Lok Adalat and it will form part of the award and the reference is answered in terms of the settlement.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 27th day of October, 2006.

P. L. NORBERT, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ. एन. जी. सी. लिमिटेड (देहरादून) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, चन्डीगढ़ के पंचाट (संदर्भ संख्या आई डी नं. 1138 आफ 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-30011/14/2004-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 1138/2005) of the Central Government Industrial Tribunal-cum-Labour Court- II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONCG Ltd., Northern Region Business Centre, Dehradun and their workman, which was received by the Central Government on 13-11-2006.

[No. L-30011/14/2004-IR(M)]

N.S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, SECTOR 18, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case No. 1138/2005

Registered on 23-9-2005/6-7-2004

Date of Decision 16-1-2006

Sh. Bhikham Ram S/o Sh. Padam Nath,
C/o Suresh Kumar, General Secretary,
ONCG Mazdoor Union,
Dhaban Mandi (HP)

... Petitioner

V/s

The Manager,
ONCG Northern Region
Business Centre, Dehradun,
Uttaranchal, Dehradun.

... Respondents

APPEARANCES

For the Workman Mr. M.S. Gorski

For the Management Mr. I.S. Sidhu,
Advocate

AWARD

The Government of India, Ministry of Labour, referred the following matter for the adjudication of this Tribunal vide their order No. L-30011/14/2004-IR(M) dated 4-6-2004:

"Whether the action of the Management of Oil & Natural Gas Corporation Ltd., Tel. Bhavan, Dehradun in terminating the services of Sh. Bhikham Ram S/o Sh. Padam Nath, Ex-Contingent Worker (unskilled) w.e.f. 1-10-2003 without any notice and without any payment of retrenchment compensation, is illegal and unjustified ? If so, to what relief the concerned workman is entitled and from which date ?"

The workman continues to be absent. The Management appears through counsel. On the last date of hearing the counsel appearing for the workman stated at bar that the workman is not interested to prosecute this case, therefore, the same may be decided as not pressed. So as to verify the facts the Court issued notice to the workman under registered cover on 14-12-2005. The notice has been received back with the endorsement of postal authorities that the workman has left without address. On record there is no other address of workman on which effort can be made to serve him. This also supports the claim of the counsel of the workman that the workman is not interested to prosecute the case.

The appropriate Government desired to know whether the action of the Management of Oil and Natural Gas Corporation Limited Odmas Tel Bhawan, Delhi, in terminating the service of the workman with effect from 1st of October 2003 was without any notice and payment of compensation, thus the same was illegal and unjustified. There is no evidence on record to hold that the workman had worked for the Management and the Management violated the provisions of the Industrial Disputes Act by terminating his service and thus his termination from service was illegal. Hence the reference is answered that there is nothing on record to show that the services of the

workman were terminated by Management on 1st October 2003 and the said order was illegal and unjustified. The award is passed in these words. Let a copy of it be sent to the appropriate Government for necessary action and the file be sent to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/101 आफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-30012/8/2000-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/101 of 2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corporation Ltd. and their workman, which was received by the Central Government on 13-11-2006.

[No. L-30012/8/2000-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT MUMBAI

PRESENT:

A.A. Lad, Presiding Officer

Reference No. CGIT-2/101 of 2001

Employers in Relation to the Management of

Hindustan Petroleum Corporation Ltd.

The Manager,
Hindustan Petroleum Corporation Ltd.,
Loni Terminal,
Pune 412201.

AND

THEIR WORKMEN

The General Secretary,
Petroleum Employees Union,
Tel Rasayan Bhawan,
Tilak Road, Dadar,
Mumbai 400014.

APPEARANCES

For the Employer : Mr. B. D. Birajdar, Advocate

For the Workmen : Mr. Jaiprakash Sawant,
Advocate

Date of passing of Award : 4th October, 2006

AWARD

1. The Government of India, Ministry of Labour by its Order No. L-30012/8/2000/IR(M) dated 31-05-2000 in exercise of the powers conferred by clause (d) of sub section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the Claim of Petroleum Employees union that the casual labours appended at Annexure A were engaged continuously by the management of HPCL at Loni Terminal, Pune and whether the action of the Management of HPCL in terminating their services w.e.f. 1-10-1999 is legal and justified? If not, to what relief the workmen are entitled?”

2. To substantiate the subject matter in the reference, Second party files Statement of Claim (Ex-10), which was replied by first party by filing Written Statement (Ex-14). Issues were framed at Ex-16, relying on those pleadings, and matter was posted for recording evidence.

3. The matter was lying on the file for five years. Second party did not appear in the reference since May 2006 though his advocate was present. Even fresh notices were served vide Ex-25 & 26 on second party. Noting that, second party is not interested, following order is passed :

ORDER

Reference is disposed of for want of prosecution.

Mumbai,
dated 04-10-2006

A.A. LAD, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या आई डी 1067/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-11012/03/95-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. ID. 1067/2005) of the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 13-11-2006.

[No. L-11012/03/95-IR (M)]
N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I.D. No. 1067/2005

Registered on 21-9-2005

Date of Decision 19-9-2006

Sartaj Singh S/o Shri Dayal Singh,
Village and Post Office Rahgil,
Post Bandi, Kangra, H.P.

... Petitioner

Versus

Airport Officer,
Airport Authority of India,
Kangra Airport,
Gaggal-176209

... Respondent

APPEARANCES

For the Workman : Rana Inderjit Singh,
Advocate

For the Management : Mr. Jagdish Manchanda,
AR

AWARD

The parties are not present even today. They were not present even on the last date fixed for 3rd August, 2006. The workman was not present even on 3rd May, 2006, on which day he was given last opportunity to produce the evidence. In this between neither he has appeared nor produced the evidence. On record there is only a statement of claim, the reply of the Management, the affidavit of the workman and that of witness of the Management.

The Govt. of India vide their notification No. L-11012/03/95 dated 4th January, 1996 has desired to know whether the termination of services of Sartaj Singh, a daily rated worker w.e.f. 1st June, 1993, by the Management through their Aerodrome Officer, Gaggal Kangra (H.P.) was just and legal and if not, to what relief the workman is entitled to

and from which date. As stated earlier the workman has filed the Claim Petition and his affidavit. His claim has been denied by the Management in their Written Statement duly supported by the affidavit of Shri S.K. Sharma, Aerodrome Officer. Since the workman has not appeared to stand to the cross-examination of the Management, his affidavit which has remained unproved, cannot be read in his support. I, therefore, do not find evidence much less cogent evidence to hold that the management had terminated the services of the workman on 3rd June, 1993 and their action was unjust and illegal. For this reason the reference is answered against the workman holding that there is no evidence produced by him to prove that his services were terminated by the management and their action was bad in law. Let a copy of the award, the outcome of the discussion, be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा में गानोज और मिनरल्स प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी-402 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-27011/1/2001-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D.-402/2001) of the Central Government Industrial Tribunal-cum-Labour Court, CGIT Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Orissa Manganese & Minerals (P) Ltd. and their workman, which was received by the Central Government on 13-11-2006.

[No. L-27011/1/2001-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri N.K.R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 402/2001

Date of Passing Award, 16th October, 2006

BETWEEN

The Management of the General
Manager, Orissa Manganese & Minerals (P) Ltd.,
At/PO. Korla, Dist.
Sundargarh ... 1st Party—Management

AND

Their Workmen, represented through
The Secretary, Orissa Minerals workers Union,
P.O. Barsua.
Dist. Sundargarh ... 2nd Party—Union

APPEARANCES

None : For the the 1st Party—Management

None : For the 2nd Party—Union

AWARD

1. The Government of India, in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-27011/1/2001 IR (M), dated 18-6-2001 :

"Whether the action of the Management of Orissa Manganese & Minerals (P) Ltd., Korla in not paying subsistence allowance as per the provision of Section 10-A of the Model Standing Order of Industrial Employment (Standing Order) Act, 1946 to Shri Maheswar Patra, Sh. Sonia Munda, Shri Munda, Shri Lakhan Munda, Shri Dasarathi Patra and Shri Pandav Patra is justified? If not, what relief the workmen are entitled to?"

2. In the Claim Statement filed by the Union, it is alleged in short that on a false allegations of not attending to his work during the duty hours the workman was placed under suspension with effect from 13-12-1999 but he was not paid any subsistence allowance as prescribed under the model standing order.

3. The Management on the other hand contended in its written statement that pending a departmental enquiry against the workman for remaining unauthorizedly absent during working hours he was placed under suspension but subsequently he was reinstated on his begging apology on condition that he would not claim any subsistence allowance or wages for the period of his absence during suspension period. It is also further contended by the management that the model standing order is not applicable inasmuch as the Management has got its own certified standing order. As in the said certified standing order there being no provision for payment of subsistence allowance, the present claim of the Union is of little consequence.

4. On the basis of the pleadings of the parties the following issues were framed :

ISSUES

1. Whether the reference is maintainable?
2. Whether the action of the Management of Orissa Manganese and Minerals Pvt. Ltd., Kaira in not paying subsistence allowance as per the provision of Section 10-A of the Model Standing Order of Industrial Employment (Standing Order) Act, 1946 to Shri Maheswar Patra, Shri Sonia Munda, Shri Munda, Shri Lakhan Munda, Shri Dasarathi Patra and Shri Pandav Patra is justified?

3. If not, what relief the workmen are entitled to?

5. Be it noted here at the very outset that after framing of necessary issues on 31-12-2001 both the parties attended the Tribunal on several dates but ultimately the 2nd Party—Union did not like to adduce any evidence. As a result the case was posted for evidence of the Management. But most surprisingly after the above order was passed both the parties started remaining absent on several dates intermittently and since 31-5-2005 neither of them are attending the court leaving sufficient scope for the Tribunal to hold that they are no more interested in the litigation.

6. Accordingly the reference is answered with a note of no dispute subsist perhaps.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा मैंगनीज और मिनरल प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, उड़ीसा (भुवनेश्वर) के पंचाट (संदर्भ संख्या आई डी-नं. 403 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-27011/2/2001-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 403/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneshwar as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Orissa Manganese & Minerals (P) Ltd. and their workman, which was received by the Central Government on 13-11-2006.

[No. L-27011/2/2001-IR (M)]

N.S. BORA, Desk Officer

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESHWAR

PRESENT:

Shri N.K.R. Mohapatra, Presiding Officer,
 C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 403/2001

Date of Passing Award, 16th October, 2006

Between

The Management of the General
 Manager, Orissa Manganese & Minerals (P) Ltd.,
 At/PO. Korla, Distt.
 Sundargarh ... 1st Party—Management

AND

Their Workmen, represented through
 The Secretary, Orissa Minerals Workers Union,
 P.O. Barsua,
 Distt. Sundargarh ... 2nd Party—Union

APPEARANCES

None : For the 1st Party—Management

None : For the 2nd Party—Union

AWARD

The Government of India, in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-27011/2/2001-IR (M), dated 18-6-2001 :

“Whether the action of the Management of Orissa Manganese & Minerals (P) Ltd., Korla by not paying subsistence allowance as per the provision of Section 10-A of the Model Standing Order of Industrial Employment (Standing Order) Act, 1946 to Shri Chilu Naik and Shri Nabina Mahakud is justified? If not, what relief the workmen are entitled to?”

2. In the Claim Statement filed by the Union, it is alleged in short that on a false allegations of not attending to his work during the duty hours the workman was placed under suspension with effect from 13-12-1999 but he was not paid any subsistence allowance as prescribed under the Model Standing Order.

3. The Management on the other hand contended in its written statement that pending a departmental enquiry against the workman for remaining un-authorizedly absent during working hours he was placed under suspension but subsequently he was reinstated on his begging apology on condition that he would not claim any subsistence allowance or wages for the period of his absence during

suspension period. It is also further contended by the management that the model standing order is not applicable inasmuch as the Management has got its own certified standing order. As in the said certified standing order there being no provision for payment of subsistence allowance, the present claim of the Union is of little consequence.

4. On the basis of the pleadings of the parties the following issues were framed :

ISSUES

1. Whether the reference is maintainable?

2. Whether the action of the Management of Orissa Manganese & Minerals (P) Ltd., Korla by not paying subsistence allowance as per the provision of Section 10-A of the Model Standing Order of Industrial Employment (Standing Order) Act, 1946 to Shri Chilu Naik and Shri Nabina Mahakud is justified?

3. If not, what relief the workmen are entitled to?

5. Be it noted here at the very outset that after framing of necessary issues on 31-12-2001 both the parties attended the Tribunal on several dates but ultimately the 2nd Party-Union did not like to adduce any evidence. As a result the case was posted for evidence of the management. But most surprisingly after the above order was passed both the parties started remaining absent on several dates intermittently and since 31-5-2005 neither of them are attending the court leaving sufficient scope for the Tribunal to hold that they are no more interested in the litigation.

6. Accordingly the reference is answered with a note of no dispute subsists perhaps.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेटरनी आईरन माईन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी-78 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-26012/1/2002-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 78/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in

the Industrial Dispute between the employers in relation to the management of Baitarani Iron Mines and their workman, which was received by the Central Government on 13-11-2006.

[No. L-26012/1/2002-IR (M)]
N.S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri N.K.R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 78/2002

Date of Passing Award, 16th October, 2006

BETWEEN

The Management of the Agent,
Baitarani Iron Mines of Dr. Sarojini Pradhan,
At./PO. Barbil, Dist. Keonjhar,
Orissa-758035 ... 1st Party—Management

AND

Their Work Woman, Smt. Lembo Munda,
W/o Ghana Munda, At./Po. Birkela,
Via, Joda, Distt. Keonjhar,
Orissa ... 2nd Party-Work Woman

APPEARANCES

Authorised Representative : For the 1st Party—
Management

None : For the 2nd Party—Work
Woman

AWARD

The Government of India, in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-26012/1/2002-IR (M), dated 18-10-2002:

"Whether the action of the Management of Baitarani Iron Mines of Dr. S. Pradhan, At./Po. Barbil, Dist. Keonjhar, in terminating the services of Smt. Lembo Munda W/o. Ghana Munda, At/Po. Birkela, Via Joda, Dist. Jeonjhar, PRW w.e.f. 1-10-1999 without serving any notice and without following the provisions of I.D. Act, 1947 is justified? If not what relief the workman is entitled to?"

2. Pursuant to the above reference the workman submitted his Statement of Claim alleging that even though

she was working continuously in mines of the Management No. 1 from 1989, she was terminated without notice on 1-10-1999 and as such she is entitled to be reinstated in service with full back wages etc. In reply to the above the Management filed his written statement stating that the workman was never in continuous employment nor she was a regular employee. According to him the workman was working as a piece rated worker intermittently depending upon the requirement of work and that during his non-engagement period she also used to work in some other mines. It is further contended by the management that for the reasons best known, the workman did not turn up for her engagement from 1-10-1999 onwards and as such there was no fault on the part of the Management nor the workman is entitled for any relief under section 25(F) of the I.D. Act, her engagement not being continuous.

3. Be it noted here that the record shows that after communication of the letter of reference by the Government the workman simply sent her claim statement by post but thereafter did not take any further step to establish her case by withholding herself from attending the Court. The record further shows that she has also failed to respond to the Court's notices sent several times to ensure her presence. In view of the above, there is no other alternative but to hold that the workman is perhaps no more interested in the case.

4. Accordingly the reference is disposed of.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.ए.सी.ओ.आर. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी- 11 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

—[सं. एल-29012/84/95-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 11/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FACOR and their workman, which was received by the Central Government on 13-11-2006.

[No. L-29012/84/95-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR****PRESENT:**

Shri N.K.R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar

Tr. Industrial Dispute Case No. 11/2001

Date of Passing Award, 16th October, 2006

Between

The Management of Executive (Mines),
FACOR, Laxmi Bhawan, Kuans,
Bhadrak, Orissa ... 1st Party—Management

AND

Their Workman, represented through,
The General Secretary, Chrome Zone,
Employees Union, At./Po. Soso,
Dist Keonjhar. ... 2nd Party—Workman

APPEARANCES

None : For the 1st Party—Management

None : For the 2nd Party—Workman

AWARD

1. The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/84/95 IR (Misc.), dated 5-12-1995:

“Whether the action of the Management of FACOR in terminating the services of Shri J.M. Mohapatra, Shift Foreman, COB Plant of Boula Chromite Mines with effect from 25-7-1995 is lawful and justified? If not, to what relief the workman is entitled to?”

2. The record shows that while the case was posted for award a joint petition was filed on 24-1-2006 for effecting an award on compromise. The Memorandum of Settlement filed before the Court shows that on 14-10-2005 a settlement was arrived at between the parties and accordingly a sum of Rs. 70,000 has already been paid to the workman in full satisfaction of all his claims on conditions that the workman shall not raise any sort of dispute against the management pertaining to his services and shall have no lien over his service in future. The hand receipt filed by the Management shows that the aforesaid sum has been received by the workman and in token thereof the aforesaid receipt has been granted in presence of witness.

3. In view of the above, an award on compromise is passed herewith on afore stated terms and conditions.

4. Reference is answered accordingly.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2006

का. आ. 4675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेटरनी आइरन माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी-79 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-26012/2/2002-आई आर (एम)]

एन. एन. बोरा, डेस्क अधिकारी

New Delhi, the 13th November, 2006

S.O. 4675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 79/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Baitarani Iron Mines and their workman, which was received by the Central Government on 13-11-2006.

[No. L-26012/2/2002-IR (M)]

N.S. BORA, Desk Officer,

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR****PRESENT:**

Shri N.K.R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 79/2002

Date of Passing Award, 16th October, 2006

BETWEEN

The Management of the Agent,
Baitarani Iron Mines of Dr. Sarojini Pradhan,
At./Po. Barbi, Dist. Keonjhar,
Orissa. ... 1st Party—Management

AND

Their Work woman, Smt. Menjo Munda,
W/o Gurucharan Munda, At/Po. Birkela,
Via Joda, Dist. Keonjhar,
Orissa. ... 2nd Party-Work Woman

APPEARANCES

Authorised Representative : For the 1st Party—
Management

None : For the 2nd Party—
Work-Woman

AWARD

1. The Government of India, in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-26012/2/2002 IR (M), dated 18-10-2002 :

"Whether the action of the Management of Baitarani Iron Mines of Dr. S. Pradhan, At/Po. Barbil, Dist. Keonjhar, in terminating the services of Smt. Menjo Munda, W/o. Gurucharan Munda, At/Po. Birkela, Via Joda, Dist. Keonjhar, PRW w.e.f. 1.10.1999 without serving any notice and without following the provisions of I.D. Act, 1947 is justified? If not, to what relief the workman is entitled to?"

2. Pursuant to the above reference the workman submitted his Statement of Claim alleging that even though she was working continuously in the mines of the Management No. 1 from 1989 she was terminated without notice on 1-10-1999 and as such she is entitled to be reinstated in service with full back wages etc. In reply to the above the Management filed his written statement stating that the workman was never in continuous employment nor she was a regular employee. According to him the workman was working as a piece rated worker intermittently depending upon the requirement of work and that during his non-engagement period she also used to work in some other mines. It is further contended by the Management that for the reasons best known, the workman did not turn up for his engagement from 1-10-1999 onwards and as such there was no fault on the part of the Management nor the workman is entitled for any relief under section 25(F) of the I.D. Act, his engagement not being continuous.

3. Be it noted here that the record shows that after communication of the letter of reference by the Government the workman simply sent her claim statement by post but thereafter did not take any further step to establish her case by withholding herself from attending the Court. The record further shows that she has also failed to respond to the Court's notices sent several times to ensure her presence. In view of the above, there is no other alternative but to hold that the workman is perhaps no more interested in the case.

4. Accordingly the reference is disposed of.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2006

का. आ. 4676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण सं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 222/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/255/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2006

S.O. 4676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 222/1999) of the Central Government Industrial Tribunal/Labour Court, No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 13-11-2006.

[No. L-12012/255/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, NEW DELHI**

PRESENT:

Shri R. N. Rai, Presiding Officer

I. D. No. 222/1999

In the matter of:

Shri Gulab Chand,
C/o Shri J. N. Kapoor,
33-34, Bank Enclave,
Ring Road, Rajouri Garden,
New Delhi-110027

Versus

The Regional Manager,
State Bank of India,
Region-V, 11, Parliament Street,
New Delhi-110001

AWARD

The Ministry of Labour by its letter No. L-12012/255/99/IR (B-I), Central Government, dt. 9-11-1999 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the action of the management of State Bank of India in terminating the services of Shri Gulab Chand, Messenger-cum-Water Boy-cum-General Servant-cum-Canteen Boy w.e.f. 1-12-1995 is just and legal? If not, to what relief the workman is entitled to?"

The workman applicant has filed claim statement. In the claim statement he has stated that he was appointed at State Bank of India, Ferozpur Jhirka Branch as Messenger-cum-Water Boy-cum-General Servant w.e.f. 5-2-1993 against permanent and regular vacancy.

That the workman has been performing all the duties of Messenger-cum-Water Boy-cum-General Servant from 8.00 A.M. to 6.00 P.M. The workman was cleaning the tables and counters. The workman has also been attending as Messenger/Peon the officials and counter staff of the Branch. The workman has been filling water in the pitchers and serving the same to the staff and customers of the bank. The workman was also performing duties in the bank records as Peon. In fact the workman had been doing all the duties of Messenger-cum-Farrash-cum-Water Boy-cum-General Servant at the Branch. He has also been attending to outdoor duties of the bank assigned to him frequently.

That the workman had worked from 5-2-1993 to 30-11-1995. He worked for more than 240 days in a calendar year. That the management was paying the workman wages @ Rs. 20 per day which were much below the Minimum Wages which were required to be paid under the Minimum Wages Act.

That the Branch Manager had not been paying the workman minimum wages either in accordance with the BPS or in accordance with the Minimum Wages Act. Unfair, illegal and mala fide means were adopted by the Branch Manager in the matter of payment of wages to the workman and as such he was following unfair labour practice.

That the workman was neither given any appointment letter nor any termination letter, which amounts to unfair labour practice. That his services were terminated illegally w.e.f. 1-12-1995 without any notice and without any chargesheet and without payment of any retrenchment compensation under the ID Act, 1947.

That after termination of services of the workman the management appointed other person and thus violated the provisions of Section 25F, 25G and 25H of the ID Act, 1947.

That having received injustice at the hands of the management, the workman was forced to raise an industrial dispute in the matter before the Assistant Labour Commissioner (C), Faridabad vide his letter dated 9-3-1998.

That the workman also submitted a detailed rejoinder before the ALC(C), Faridabad vide his letter dated 2-9-1998. The copy of the said letter is also enclosed marked Annexure B. The contents of the said rejoinder letter may kindly be treated as part and parcel of workman's this statement of claim.

That in terms of the bipartite agreement dated 27-10-1990 and 9-1-1991 entered between the bank and All 3657G/06-30

India State Bank of India Staff Federation, all casual employees, daily wagers employees or temporary employees having worked for more than 30 days in a calendar year, were required to be empanelled according to their length of service and absorbed permanently as and when vacancies arose in future.

That the General Manager (Operations) SBI, New Delhi HO issued instructions in clarification of the above agreements to all the Zonal Offices vide his letter No. PER : 1852 dated 28-5-1991, according to which all canteen employees who were also utilized at branches for the bank work for more than 30 days in the bank in addition to their canteen duties should also be considered for permanent absorption in the bank.

That during the course of conciliation proceedings the ALC(C) suggested the management to resolve the issue and reinstate the workman but the management did not agree to the reasonable suggestion of the ALC. The proceedings ended in failure and finally the following reference has been made by the Government of India to this Hon'ble Tribunal for adjudication.

"Whether the action of the management of State Bank of India in terminating the services of Shri Gulab Chand, Messenger-cum-Water Boy-cum-General Servant-cum-Canteen Boy w.e.f. 1-12-1995 is just and legal? If not, to what relief the workman is entitled to?"

That in view of the above submissions made by the workman it is proved beyond doubt that the action of the management was illegal, unjustified and amounts to unfair labour practices of victimization.

In the circumstances of the case it is prayed that the action of the management be held illegal and unjustified. The workman be reinstated in the bank's service with retrospective effects with full wages and continuity of service and should also be paid full wages in accordance with the bipartite agreement. He should also be absorbed permanently in the bank's service. It is further prayed that suitable cost be awarded to the workman. It is also prayed that any other relief may also be granted to the workman which the Hon'ble Tribunal deems fit and proper in the circumstances of the case.

The management has filed written statement. In the written statement it has been stated that there is no industrial dispute defined under section 2(k) of the ID Act, 1947 in the matter as there was no employer-employee relationship between the management and the claimant. Consequently the claimant was not a workman as defined under section 2(s) of the said Act. Hence the claim is liable to be dismissed being not maintainable.

That it is submitted that the claimant was never appointed by the bank in its employment in any capacity

including Messenger-cum-Water Boy. Hence no right accrued to the claimant as claimed in the claim. The bank is a Public Sector Bank and there are set rules and regulations for the appointments are made by the appointing authority in accordance with the recruitment rules. The rules regarding reservations etc. are also observed. On this ground also the claim is not maintainable.

That Shri Gulab Chand was engaged as Canteen Boy by the Local Implementation Committee (LIC) at the Branch which is a welfare body meant for the staff of the bank in order to serve them tea and snacks. Local Implementation Committee comprises of the employees of the branch concerned. The services of the canteen boy are engaged by this committee in order to serve tea and snacks amongst the staff members as well as the visitors. The bank has no control on the work of the committee as well as the work carried out by the canteen boy engaged by the committee. The bank has no right to direct the manner in which the work of the canteen be carried out. Accordingly the bank has no right to take any disciplinary action or to direct any canteen boy to do a particular work and even the bank has no statutory obligation to run the canteen. The canteen boys are engaged by the LIC and not by the bank. Shri Gulab Chand was never on the pay rolls of the bank in any capacity. Further as Shri Gulab Chand was never appointed by the bank hence there is no question of any termination of the alleged services.

It is submitted that the claimant was never appointed in the bank in any capacity. The claimant be put to the strict proof of the averments made in this para. There existed no employer-employee relationship between the bank and the claimant and hence he was not a workman as defined under ID Act.

The claimant never performed the duties in the bank as mentioned in this para. The claimant be put to strict proof of the averments made in this para.

It is wrong and denied that the claimant had worked in the bank from 5-2-1993 to 30-11-1995 as alleged in the claim. The claimant was never in the employment of the bank. The claimant be put to strict proof of the averments made in this para.

Since the claimant was not an employee of the bank there arose no question of paying any wages or minimum wages as alleged by the bank.

Since the claimant was not an employee of the bank, there arose no question of paying any wages of minimum wages as alleged by the bank. Hence there was no question of committing any unfair labour practice would arise. The bank has not committed any unfair labour practice as alleged.

The claimant was never appointed in the bank in accordance with the recruitment rules, hence there arose

no question of giving any appointment order or order of termination as alleged. The allegations are wholly misconceived. Since the claimant was not an employee of the bank the question of terminating his services by the bank would not arise at all. There was no question of unfair labour practice as alleged in this para.

There was no question of termination of services of the claimant as he was never appointed by the bank in its employment. Therefore, there was no need to give any notice or issue charge sheet or pay and retrenchment compensation as alleged in this para, especially when the claimant was never appointed in the bank. These allegations are misconceived and are wrong and denied.

The bank has not violated any provisions of law including Sections 25F, 25G and 25H of the ID Act. These provisions are not attracted at all to the facts and circumstances of the present case. Since the claimant was not an employee of the bank there was no question of termination of his services by the bank would arise at all.

It is submitted that the claim of the claimant before the conciliation officer were untenable, unjustified and devoid of any merit.

That it is submitted that the agreements have been misconstrued by the claimant. The claimant has no right under the agreements to seek permanent employment in the bank. In terms of agreement the employees employed on casual basis is only entitled to be considered for keeping their names in a panel for absorption, if the casual had put in a minimum 30 days. The absorption was to be made out of the panel as and when vacancies arose. The scheme as existed then is not in existence now. Since the claimant was not in the employment of the bank, he would not be eligible under the agreement/settlements. The empanelment is subject to eligibility norms like age and educational qualification. Therefore, the claimant can have no grievance as alleged. Hence no right accrued to the claimant to claim permanent appointment in the bank.

It is submitted that the claim of the claimant does not fall within the purview of the agreement/settlements entered into between the Staff Association and the management. The claimant never in the employment of the bank on a single day.

That the contents of para 13 of the claim are matter of records and needs no reply. That the contents of para 14 of the claim are wrong and denied being misconceived.

It is prayed to the Hon'ble Tribunal that it may kindly pass award holding that the claim is not maintainable in view of the above submissions and the claimant is not entitled to any relief as prayed in the claim. The claim be dismissed accordingly.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim

statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he was appointed at SBI against permanent vacancy. He served the management as Messenger-cum-Water Boy-cum-General Servant from 8 a.m. to 6 p.m. He was cleaning the tables and counters and he was discharging the duties of Peon also. He was handling banks records and making purchase on the directions of the bank for which payment has been made to him. He has worked for more than 240 days in a calendar year. The work is of continuous and regular nature. He has not been paid retrenchment compensation. So there is no cessation of his service. He shall be deemed to be in continuous service as retrenchment not been validly effected.

It was submitted from the side of the management that he was simply a Canteen Boy. He was engaged by Local Implementation Committee (LIC) and he performed the duties purely of Canteen. He was a Canteen Boy. He was not a Messenger or Office Peon or Water Boy. Payment was made to him by the Local Implementation Committee (LIC). He worked under the supervision and control of the LIC.

The workman has filed photocopies of petty cash register. These photocopies have been signed by the Cash Officer and the Branch Manager. These photocopies have not been denied. From perusal of the photocopies it transpires that the workman has performed duties of Peon etc. He has not acted only as a Canteen Boy. He has worked continuously. He has been made payment for purchase of tables, Carbon Papers, purchase of Glass, purchase of Torch Cell etc. The photocopy of petty cash register B-37 to B-52 amply prove the fact that the workman served the management for more than 240 days continuously as Office Peon, Record Keeper. He has discharged miscellaneous duties.

It was submitted that the Dy. GM, SBI from the office issued directions for absorption of those workmen who performed messengerial or outdoor duties, normally performed by permanent staff. Circular of memorandum PR : 11 : 91 dated 6-4-1991 has been mentioned therein that necessary instructions be issued to the Branch Managers of the Branches to accept the applications of such Canteen Boys after verifying the records in terms of instructions contained in the above referred circular memorandum provided that they have completed more than 30 days service as Messenger. This workman has performed duties for more than 24 days and this circular was enforced at that time. It becomes quite obvious from B-60 that one Shri

Mishra has been absorbed. He has performed duties in LIC for 49 days only. The management directed to close the dispute raised by Shri Mishra in view of BPS agreement wherein it has been agreed that all the disputes raised by authorized persons shall stand closed in view of the terms of aforesaid settlement.

It was submitted from the side of the management that the workman did not make any application for appointment. The circular directed the management to invite applications of workmen who have performed miscellaneous duties. The management should have instructed the workman to file application. There is no merit in the argument that the workman did not apply so he was not absorbed. He was working at that time so it was the duty of the management to let him know regarding the circular and ask him to apply for the post.

MW1 has stated in his cross-examination that he was not aware in regard to the petty cash book maintained during the relevant period of the alleged workman. The MW1 has indirectly admitted existence of photocopies of petty cash register and there is no endorsement of denial. Thus it stands proved that the workman has worked for more than 240 days in 1993, 1994 and even in 1995.

My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wagger cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case.

It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wagger even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case Section 25F, G of the ID Act are attracted. In Section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of Section 25F are not complied. In the instant case no compensation has been paid to the workman who has continuously worked for 8 years.

It was further submitted that Section 25T provides that the management should not indulge in unfair labour practice. Section 25U provides that a person who commits any unfair labour practice will be punishable with

imprisonment for a term which may extend to six months or with fine, which may extend to Rs. 1000 or with both. The intention of the legislature in enacting 25T and 25U is obvious. The legislature wanted that in case Casual and Badlis are engaged for a long period, it amounts to unfair labour practice. There is punitive clause for committing unfair labour practice.

It was submitted from the side of the workman that Vth Schedule of the ID Act specifies some practices as unfair labour practice. The Vth Schedule clause 10 provides the criteria for ascertaining unfair labour practice. It is extracted as hereunder :

“To employ workman as Badlis, Casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privilege of a permanent workman.”

Clause 10 of the Vth Schedule stipulates that in case the workmen are employed as Casuals, Badlis or Temporary and they are continued as such for years, it will amount to unfair labour practice. In the instant case the workman has been continued as casual and temporary for 8 years. It establishes to the hilt that the respondent management has committed unfair labour practice. The workman has been engaged for 8 years as casual and temporary and thereafter he has been removed. He has not been paid retrenchment compensation.

It was submitted that Sections 25F, G, T, U and Clause 10 of the Vth Schedule of the ID Act have been deliberately violated.

In case retrenchment compensation is not paid Section 25F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of Section 25F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed unnecessarily so Sections 25F, U, T and Clause 10 of the Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workman should not be engaged for years and then he should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006(4) Scale has put down a complete ban on regularization and reinstatement. The Hon'ble Apex Court has held that employment can only be

made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the government is not precluded from making temporary appointments or engaging workers on daily wages.

The Hon'ble Apex Court has not declared the provision of ID Act unconstitutional. The Government has got no license to make always appointment of daily wagers and to continue them for life time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 and 309 are infringed. There is no constitutional mandate that the government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee.

No such Article of the Constitution has been pointed out under which the Government or Public Sector units can continue incessantly to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such a discrimination will amount to vicious discrimination. The Government of Public Sector unit will go on resorting to the method pick and choose policy and give temporary and adhoc appointments to their favourites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex Court. However, in this judgment the provision of the ID Act governing the services of the workman have not been declared unconstitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions enumerated therein or for breach of service rules provided in various labour welfare legislations.

Section 11A of the ID Act stipulates that in case the Tribunal is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstance of the case may require. According to this benign provision the labour court has the authority to set aside the order of discharge or dismissal and reinstate the workman on the terms and conditions as it thinks fit.

The Hon'ble Apex Court in 2006(4) Scale has not annulled section 11A of the ID Act and the legislature has

authorized this Tribunal to set aside dismissal or discharge on its consideration and direct reinstatement. The judgment cited by the management is not applicable in the facts and circumstances of the case.

It was further submitted that payment of full back wages is not the natural consequence of the order of discharge or dismissal being set aside. It has been held in (2003) 6 SCC 141 that it is incumbent upon the labour court to decide the quantum of back wages. In the instant case the matter involved was a case of theft or large quantity of Aluminium Wire. Departmental inquiry was not conducted in accordance with the principles of natural justice so dismissal was found bad. In such circumstances the Hon'ble Apex Court held that the order for payment of full back wages was not justified if termination is set aside. In PGI Vs. Raj Kumar (2001) 2 SCC 54 the Hon'ble Apex Court upheld the 60% award of back wages of the Tribunal.

It has been further held in this case that payment of back wages having discretionary element involved it is to be dealt with the facts and circumstances of the case. No definite formula can be evolved.

It has been further held in this case that payment of back wages in its entirety is the statutory sanction. In (2003) 4 SCC 27 the Hon'ble Apex Court held that in view of delay in raising the dispute and initiating the proceedings back wages need not be allowed. In the instant case there is no delay at least on the part of the workman in raising the dispute.

In 2004 VIII AD SC 444 the Hon'ble Apex Court upheld the order of reinstatement with 25% back wages.

In 1978 Lab IC 1968—three Judges Bench of the Hon'ble Apex Court held that payment of full back wages is the normal rule. In case services have been illegally terminated either by dismissal or discharge or retrenchment, in such circumstance the workman is entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. In the instant case the workman was always ready to work but he was not permitted on account of invalid act of the employer.

In AIR 2002 SC 1313 the Hon'ble Apex Court reduced the back wages to 25%.

In 2005 IV AD SC 39—three Judges Bench of the Hon'ble Apex Court held that reinstatement with full back wages is justified. In this case the workman has performed more than 240 days work and he has been retrenched without payment of compensation and pay in lieu of notice.

A three Judges bench of the Hon'ble Apex Court has held in 1993-II—LLJ that termination of services affects the livelihood of not only of the employee but also of the dependents. So in case of illegal termination of service the workman should be reinstated.

Reinstatement should not be misconceived as regularization. By the order of reinstatement the status quo

ante of the workman is restored. He is given back wages in order to compensate him for his illegal dis-engagement. This is a special remedy provided in ID Act and it has not been annulled and set aside by any judgment of the Hon'ble Apex Court. The provisions of the ID Act are still constitutional and they are to be given effect too.

In such cases the workman is reinstated with full back wages and the respondents have every right, after payment of back wages and reinstatement, to retrench him validly following the principles of first come last go so that section 25G and H of the ID Act are not violated.

It was submitted from the side of the management that reinstatement is not the only remedy. In such cases the workman may be given compensation. Section 11A of the ID Act, 1947 provides that in case of dismissal or discharge is found illegal reinstatement should be ordered. It has been held in a catena of cases by the Hon'ble Apex Court that reinstatement with full back wages is the normal rule. The statute provides for reinstatement. In certain exceptional cases where the undertaking has been closed down or it has become sick there may be order for payment of compensation.

In the instant case the workman worked from 5-2-1993 to 3-11-1995. He was eligible for permanent appointment in 1993 in view of the circular adverted to above but he was not selected. It is proved that he has worked up to 30-11-1995 so the workman has performed 240 days in most of the years in between 1993 to 1995. In such cases reinstatement is the only effective remedy. He has been contesting all along in view of the express provision of Section 11A of the ID Act, 1947. The bank is not incurring economic loss. Gross injustice was done to this workman when he was not given permanent appointment and some other's case was considered by the them AGM.

He is a manual worker. He cannot remain idle. He must be moving for earning his livelihood and he must be doing some sort of work off and on for his subsistence. He has not disclosed the source of his income so he must be doing off and on work and in view of the law referred to above he is entitled to reinstatement with 25% back wages.

The reference is replied thus :

The action of the management of State Bank of India in terminating the services of Shri Gulab Chand, Messenger-cum-Water Boy-cum-General Servant-cum-Canteen Boy w.e.f. 1-12-1995 is neither just nor legal. The workman applicant is entitled to be reinstated with 25% back wages. The management should reinstate the workman within two months from the publication of the award and pay him the arrears of back wages.

Award is given accordingly.

Date : 8-11-2006

R. N. RAI, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2006

का. आ. 4677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लक्ष्मी विलास बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 113/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/64/2005-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2006

S.O. 4677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (113/2005) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lakshmi Vilas Bank Ltd. and their workman, which was received by the Central Government on 13-11-2006.

[No. L-12012/64/2005-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 18th September, 2006

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 113/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (I) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Lakshmi Vilas Bank Ltd. and their workmen]

BETWEEN:

Sri V. K. Narasimhan : I Party/Petitioner

AND

The Chairman, : II Party/Management
Lakshmi Vilas Bank Ltd.
Karur

APPEARANCE:

For the Petitioner : M/s. L. Swaminathan,
Advocates

For the Management : M/s. T. S. Gopalan & Co.,
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/64/2005-IR(B-I) dated 21-10-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

"Whether the dismissal of Shri V. K. Narasimhan and denying the pensionary benefits and attendant benefits by the management of Lakshmi Vilas Bank, Karur is legal and justified? If not, to what relief the workman is entitled to?"

2. After the receipt of the reference, it was taken on file as I. D. No. 113/2005 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner Sri V. K. Narasimhan was appointed as a probationary clerk on 7-7-58 in Karaikal branch of Respondent/Bank. He was confirmed subsequently on 7-10-58 and elevated to the next higher post of Head Clerk in the year 1969 and he was designated as Accountant in the year 1986. While so, by an order dated 19-2-2000 the Petitioner was suspended from service with immediate effect in contemplation of disciplinary proceedings by invoking Service Regulations 44(a) for commission of serious and grave irregularities. The Petitioner was to retire on 29-2-2000 i.e. within ten days from the date of his suspension. The Respondent/Management subsequently initiated disciplinary proceedings without any show cause notice and fact finding enquiry and issued the charge sheet dated 22-2-2000, wherein they alleged certain lapses/irregularities in respect of manipulation of bank records pertaining to S.B. account holder one Mr. P. Anandhan and had sought for written explanation of defence. Even before that on 18-2-2000 the Petitioner has submitted his pleadings about the commission of misconduct. The Respondent/Bank failed to take note of the explanation submitted by the Petitioner on 18-2-2000 does not constitute admission of charges as the Petitioner had only stated about the factual circumstances that led to credit and debit of Rs. 75,000 with an undertaking that the said amount will be repaid at the earliest. While so, the Petitioner was allowed to superannuate from service on 29-2-2000 by an order dated 29-2-2000. After his superannuation, the Petitioner by his letter dated 2-3-2000 has explained the above compelling situation that led to the credit and debit of Rs. 75,000 and also gave an undertaking that the said amount

will be repaid at the earliest and prayed for pardon as this happens to be an isolated incident in his 41 years of impeccable career and he has also sent a cheque containing Rs. 75,000 on 13-3-2000. Even in spite of this, the Respondent/Management purposefully proceeded with the enquiry and without conducting a detailed enquiry suo motu passed an order dated 28-7-2000 wherein he was dismissed from service of the Respondent without notice. The Petitioner was thus dismissed from service without any personal hearing. The domestic enquiry and the entire proceedings culminated based on the reply letter dated 2-3-2000. Therefore, the Disciplinary Authority had not applied his mind to the facts and circumstances of the case and under the misguided illusion, the Petitioner had admitted the charges. The Disciplinary Authority was totally silent to take into consideration of 41 years of unblemished service of the Petitioner which was also appreciated by the Assistant General Manager of Respondent/Bank. Therefore, the order of dismissal is a culmination of exercise to victimize the Petitioner. The Appellate Authority has also failed to take note of the facts that the Respondent/Bank is not under loss and the Petitioner having retired from service on 29-2-2000 itself and he has also passed an order without any speaking order. The revisional authority has also not properly reviewed the situation and therefore, it is a clear case of miscarriage of justice and the Petitioner is the sole sufferer for the commission and omission of higher authorities. The punishment is totally disproportionate to the gravity of the charges and final order was issued to the Petitioner after retirement from service of the Respondent/Bank which is not legal. Hence, for all these reasons, the Petitioner prays that an award may be passed with a direction to the Respondent/Bank to pay the Petitioner the pensionary benefits and other attendant benefits incidental thereto from the date of dismissal.

4. As against this, the Respondent in its Counter Statement contended that the Respondent is a banking company having its registered office Kathapara, Karur District with branches at various places one at Karaikal. The Respondent employs Managers, Officers, clerks and subordinate staff. The clerks and subordinate staff who are workmen within the meaning of Section 2(s) of I. D. Act are called award staff and they are governed by awards and Bipartite Settlements made for award staff at industry level on all India basis. The officers of the bank are not workmen within the meaning of Section 2(s) of the I. D. Act. Their scales of pay and other service conditions are totally different from those applicable to Award staff. An officer may be posted in any of the offices/branches either as Branch Manager or Accountant or as Chief Manager etc. Though the Petitioner was initially appointed as a clerk,

he was promoted officer category in 1971 and once he has made an officer, he ceased to be a workman within the meaning of Section 2(s) of the I. D. Act. Therefore, the Petitioner cannot maintain the dispute under section 2A of I. D. Act. He was governed by Lakshmi Vilas Bank Officers' Pension Regulations clause 48(1) of Pension Regulations. Some time, in February, 2000, it came to light that on 7-12-99 the Petitioner unauthorisedly debited OD FD account for a sum of Rs. 75,000 and credited the amount to the S. B. account No. 38251 of Sri P. Ananthan by using the passwords of "Manager level and administration level" without preparing any voucher. In order to suppress the said unauthorised entries, on 24-12-99 he debited FD interest account with two debits of Rs. 37,500 each and credited OD FD account. When Sri P. Ananthan S. B. account No. 38251 holder was enquired, he informed the branch that the amount was credited by the Petitioner to repay the loan he had taken. On 18-2-2000 the Petitioner gave a letter to the Manager admitting his mistake. On 19-2-2000 the Petitioner was placed under suspension pending completion of disciplinary proceedings. On 22-2-2000 charge sheet was issued to the Petitioner. On 29-2-2000 the order of suspension was revoked and he was retained in service for the purpose of completing the disciplinary action. He retired on 29-2-2000 but he was continued in service to complete the disciplinary action. No doubt, the Petitioner made good the loss on 13-2-2000 and he has also given a reply once again admitting his mistake. On 28-7-2000 the Disciplinary Authority based on the admission of the Petitioner held that he was guilty of charges. Accordingly, orders were passed on 28-7-2000 dismissing the Petitioner from service. The Petitioner's appeal was rejected on 28-9-2000 and his petition for review was also rejected by the Board in the Board Meeting held on 21-11-2000. The imposition of punishment is only for the misconduct committed by him which was based on his admission. Therefore, the said order of dismissal should not be interfered with for any of the reasons urged by the Petitioner. After a lapse of nearly four years, the Petitioner has raised this dispute, apart from this, the dispute is not being maintainable on the ground that he is not a workman and the dispute should not be entertained on the ground of laches, delay and inaction on the part of Petitioner. By reason of his conduct, he not only made surreptitious entries using his position as Accountant, but also derived pecuniary advantage of enjoying the credit of Rs. 75,000 from 7-12-99 to 13-3-2000. Since the misconduct committed by the Petitioner are borne out by records and the facts were not disputed by the Petitioner, there is no need for enquiry. The Petitioner misused his position and made entries unauthorisedly which had resulted in pecuniary benefits to him. At no point of time, the Petitioner denied the charges or disputed the transaction and the Disciplinary Authority was justified in coming to the conclusion that the charge against him was established. As the Petitioner had indulged in the act of dishonesty,

there was no scope for lenience or compassion in the matter of awarding punishment. Therefore, the punishment of dismissal cannot be said to be disproportionate to the charges nor harsh or excessive. Hence, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

- (i) "Whether the order of dismissal against the Petitioner and denial of pensionary benefits by the Respondent/Bank is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :

6. It is admitted by both sides that on 7-12-99 the Petitioner unauthorisedly debited OD FD account for a sum of Rs. 75,000 and credited the amount to the S. B. Account No. 38251 of Sri P. Ananthan without preparing any voucher. He further debited on 24-12-99 the F. D. interest account with two debits of Rs. 37,500 each and credited the OD FD account. Thus, the Petitioner had admitted the charge framed against him.

7. On the side of the Petitioner, it is contended that the punishment of dismissal in this case cannot be said to be proportionate to the charges and it is harsh and excessive. Further, it is contended on behalf of the Petitioner that no loss was occurred to the bank and the Petitioner has paid the entire amount of Rs. 75,000 even before the punishment. Under such circumstances, it cannot be said that it is proportionate to the charge framed against him. Further, it is contended that no enquiry was conducted against the Petitioner and no document was marked and no trial was conducted and therefore, the punitive order passed by the Respondent/Management is void ab initio.

8. But, as against this, the Respondent contended that the Petitioner cannot maintain the dispute under Section 2A of the I. D. Act, since the Petitioner was working as an officer of the Respondent/Bank. When once he was appointed as an officer, he ceased to be a workman within the meaning of Section 2(s) of I. D. Act and therefore, this dispute is not maintainable before this Tribunal. The second contention of the Respondent is that even assuming for argument sake without conceding that he is a workman, the Petitioner at no time, denied the charges or disputed the transaction and therefore, the Disciplinary Authority was justified in coming to the conclusion that charge framed against him was established. Since the petitioner had indulged in the act of dishonesty, there was no scope for lenience or compassion in the matter of awarding punishment. At no stretch of imagination, it can be said that the punishment of dismissal is disproportionate to the charges nor harsh or excessive.

9. We will take the first point for consideration namely "whether this petition is maintainable under section 2A of the I. D. Act?"

10. Learned counsel for the Petitioner contended that though the Respondent alleged that the Petitioner is an Accountant discharging duties as Manager in Suriyampalayam and Mattur Branches of the Respondent/Bank w.e.f. 31-5-76 to 7-7-81 and 15-7-81 to 28-8-85 respectively as per Ex. M8, he was holding the post of Accountant and it is pertinent to note that the Petitioner joined as a clerk in the Respondent/Bank and he was promoted as Head Clerk and designated as Accountant till the date of his superannuation, and it is totally false to allege that the Petitioner was performing managerial function of the Respondent/Bank and therefore, would be excluded within the ambit and scope of Section 2(s) of the I. D. Act. The Petitioner will not fall within the excluded definition of Section 2(s) of the I. D. Act as the duties and responsibilities of the Petitioner cannot be equated even remotely to that of the managerial functions and the plea of the Respondent/Bank in this regard has to be rejected in limini as the Respondent/Bank cannot equate the Petitioner as one performing managerial function. Though the power of attorney was given, the Respondent/Bank has not granted any powers to transfer, suspend, lay off, recall, promote, assign, discharge or discipline other employees or responsible to direct them to recommend any action in connection with any of the duties of the subordinates, conduct of affairs and any other function that are related to Managers and therefore, terming by Respondent/Bank that the Petitioner is an Accountant is not in any way affect his duties as workman. He has only discharged the clerical functions and he has never discharged managerial functions. From the exhibits filed by the Respondent/Bank, even the Head Clerks are designated as officer grade II and the Respondent/Bank has also called Accountant as an Officer in the hierarchy of officers and would exclude all the staff except Junior Clerks from the purview of definition of workman which would ultimately defeat the legislative enactment pertaining to terminology of workman. He also relied on the rulings reported in 2001 ILLR 378-Sanjeev Kumar Gupta Vs. Presiding Officer wherein the Division Bench of Punjab and Haryana High Court has held that "Accounts Executive doing the work of preparation of vouchers/details of cheques, having no managerial administrative powers is a workman." It further held that "Court must find out what are if the primary and basic duties of the person concerned and he is incidentally asked to do some other work, it may not necessarily be in tune with the basic duties, these additional duties cannot change the character and status of the persons concerned". It further held that "dominant purpose of employment must be first taken into consideration and the gloss of some additional duties must be rejected while determining the status and character of the person". It further observed that "a person shall not cease to be a workman, if he performs some supervisory duties but he must be a person who is engaged in a supervisory capacity." In that case, it was also held that "an employee was not authorized to sign

cheques and prepare vouchers and would sign on the vouchers and only the Manager is authorized to take disciplinary action and on appointments, leave etc.” Therefore, the High Court has held that he is only a workman. The next decision relied on by the learned counsel for the Petitioner is reported in 1999 I LLR 1156 *Sunita B. Vatsaraj Vs. Karnataka Bank Ltd. and Another* wherein the Division Bench of the Bombay High Court has stated that “what are the parameters should be considered while resolving the controversy as to whether a given employee is a workman under the aforesaid definition of I. D. Act, 1947 or not. Firstly, the dominant purpose of the employment is relevant and not some additional duties, which may be performed by the employee. Secondly, it is not the designation but the nature of duty, thirdly, whether the employee can bind the company in the matter of some decisions taken on behalf of the company and fourthly the nature of supervisory duties performed by the employee whether it includes directing the subordinates and so on.” The next decision relied on by the learned counsel for the Petitioner is 1971 I LLJ 400 *Bhatinda Central Co-operative Bank Ltd. Vs. State of Punjab and Others* wherein the Division Bench of Punjab and Haryana High Court has held that “in exigency of temporary situation the Accountant was discharging the duties of a responsible character and it cannot be said that he was functioning mainly in a managerial capacity and therefore, held that Respondent No. 3 was only a workman.” The next decision relied on by the learned counsel for the Petitioner is reported in 2000 (5) LLR 609 *Star Paper Mills Ltd. Vs. Labour Court, Dehradun and Others* wherein while considering whether a shift inspector who was recipient of more than Rs. 6,000 as wages is a workman or not, the Allahabad High Court has held that “it is evident from the records that they can neither grant leave to subordinate staff nor can take any disciplinary action against any person. It is also evident from record that the duty of workman was to open the gate for egress and ingress of authorized persons under the instruction of Senior Security Officers and Administrative Officers as such, he was a workman.” The next decision relied on by the learned counsel for the Petitioner is reported in 1993 LIC 1979 *Ram Naresh Singh Parihar Vs. State Sugar Corporation Ltd. and Others*. In that case, the Allahabad High Court while considering whether the job of cashier is of supervisory character or not, it has held that “job of cashier is not of supervisory character and he is only a workman.” Relying on these decisions, learned counsel for the Petitioner contended that though the Respondent/Bank has called the Petitioner as Accountant, he has done only clerical jobs and he has not exercised any managerial power and as such, he is entitled to the benefits of I. D. Act as a workman.

11. But, as against this learned counsel for the Respondent contended that in the Respondent/Bank, it employs Managers, Officers, clerks and subordinate staff,

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the clerks and subordinate staff alone are workmen within the meaning of Section 2(s) of the I. D. Act and they are called award staff and they are also governed by Awards and Bipartite Settlements which are made for award staff at industry level on All India basis and the officers of the bank are not workmen within the meaning of section 2(s) of I. D. Act and the officers are governed by different scales of pay ranging from scale I to VII. An officer may be posted in any of the branches or offices either as Branch Manager or Accountant or Chief Manager etc. Though the Petitioner was initially appointed as a Clerk, he was promoted to officer category in 1971 and when once he was made as an officer in 1971, he ceased to be a workman within the meaning of Section 2(s) of the I. D. Act and at the time of cessation of employment, he was not a workman and was governed by Lakshmi Vilas Bank Officers' Pension Regulations, 1987. Further, learned counsel for the Respondent contended that in this case even in the evidence, the Petitioner has admitted if an award staff is promoted to officer grade, they will be ceased to be governed by the said awards and he has further admitted with regard to officers' rules and regulations and disciplinary procedures they are separate. It is his admission that he worked as a Manager in Respondent/Bank branches in Mattur, Suriambalayam and Arakandanallur. It is his categorical admission that all the officers of the Respondent/Bank are treated on par irrespective of their grade and portfolio. Thus, it is clear from the admission of the Petitioner that he was only doing managerial duties and therefore, he is not a workman. It is his further argument that only as an Accountant, the Petitioner has debited OD FD account for a sum of Rs. 75,000 and credited the said amount to the S. B. Account No. 38251 of Sri P. Ananthan by using the password of Manager level and Administration level without preparing any voucher. By these acts, it is clear that he has done only managerial powers not done as a workman. When he has exercised the powers to pass and debit OD and FD account and also credited the S. B. account as a Manager, it cannot be said that he is a workman in the Respondent/Bank.

12. I find much force in the contention of the learned counsel for the Respondent because though on behalf of the Petitioner, it was contended that the Petitioner has no power to suspend or to take disciplinary action against the subordinate staff and all the staff except junior clerks are officers under the Respondent/Management, I am not accepting the contention of the learned counsel for the Petitioner. In these circumstances, because the Petitioner as an Accountant acted in a managerial position, he has transferred Rs. 75,000 from the OD and FD account to the S. B. account of the Respondent/Bank. It is not contended on behalf of the Petitioner that he has no power to transfer the said amount from OD and FD Account to S. B. Account. Though it is an unauthorized transfer, the Petitioner has not disputed that he has no power to transfer the same.

Under such circumstances, I find the Petitioner has worked only in a managerial position, he is not entitled to the benefits of the I. D. Act.

13. Since I have held that the Petitioner is not entitled to claim benefits under section 2(s) of the I. D. Act, I need not go into the question whether the punishment imposed by the Respondent/Management is disproportionate to the charge framed against the Petitioner or whether it is excessive and harsh ?

14. Learned counsel for the Respondent contended that for abundant caution, he has stated in his Counter Statement that even in any case, since the Petitioner had at no time denied the charges or disputed the transaction and the Disciplinary Authority was justified in coming to the conclusion that the charge framed against the Petitioner was established and as the Petitioner had indulged in the act of dishonesty, and by the reason of his conduct he has not only made surreptitious entries by using his position as Accountant and also derived pecuniary advantage of enjoying the credit of Rs. 75,000 from 7-12-99 to 13-3-2000, there was no scope for leniency or compassion in the matter of awarding punishment and the punishment of dismissal cannot be said to be disproportionate, harsh or excessive.

15. But, as against this, learned counsel for the Petitioner contended that no enquiry was conducted against the Petitioner and no document was marked through any witness. Under such circumstances, the punitive order passed by the Respondent/Management is illegal and he relied on the rulings of Supreme Court and High Courts under section 11A of the I. D. Act.

16. But, here again, I am not inclined to accept the contention of the learned counsel for the Petitioner because since the Petitioner has admitted in his letter dated 2-3-2000, it cannot be said that there must be some enquiry by the Respondent/Management and the Disciplinary Authority on the admission made by the Petitioner under Ex. W9 has come to the conclusion that the charge framed against the Petitioner has been proved. As such, I find on any ground the punishment imposed on the Petitioner cannot be termed as disproportionate to the charges framed against the Petitioner. But, this finding is given without prejudice to my aforesaid finding with regard to the first issue namely the Petitioner is not entitled to claim any benefits under section 2(s) of the Industrial Disputes Act. Therefore, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

17. In view of my foregoing findings that the Petitioner is not entitled to claim the benefits under section 2(s) of the I. D. Act, I find the Petitioner is not entitled to any relief. No Costs.

18. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th September, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner : WW1 Sri V. K. Narasimhan

For the Respondent : None

Documents Marked :

For the I Party/Petitioner :

| Ex. No. | Date | Description |
|---------|----------|---|
| W1 | 01-11-99 | Xerox copy of the letter of appreciation by Respondent/Bank. |
| W2 | 16-02-00 | Xerox copy of the letter of Manager to General Manager of Respondent/Bank. |
| W3 | 16-02-00 | Xerox copy of the letter of Mr. Anandan to Manager. Along with statement of accounts. |
| W4 | 18-02-00 | Xerox copy of the letter from Petitioner. |
| W5 | 18-02-00 | Xerox copy of the notice for appointment of Disciplinary Authority & Appellate Authority. |
| W6 | 19-02-00 | Xerox copy of the order of suspension. |
| W7 | 22-02-00 | Xerox copy of the Charge Sheet |
| W8 | 29-02-00 | Xerox copy of the proceedings of Chairman of Respondent/Bank. |
| W9 | 02-03-00 | Xerox copy of the letter from Petitioner to AGM of Respondent/Bank. |
| W10 | 13-03-00 | Xerox copy of the letter from Petitioner to Manager of Respondent/Bank. |
| W11 | 28-08-00 | Xerox copy of the proceedings of Disciplinary Authority. |
| W12 | 11-08-00 | Xerox copy of the letter of Petitioner to Appellate Authority. |
| W13 | 31-08-00 | Xerox copy of the minutes of hearing of Appellate Authority. |
| W14 | 29-09-00 | Xerox copy of the proceedings of Appellate Authority. |
| W15 | 16-10-00 | Xerox copy of the review petition to Chairman of Respondent/Bank. |

- W16 28-11-00 Xerox copy of the dismissal of review petition.
- W17 09-12-04 Xerox copy of the 2A petition filed before labour authorities.
- W18 20-12-04 Xerox copy of the letter of AGM of Respondent/Bank to Assistant Commissioner of Labour (Central).
- W19 10-01-05 Xerox copy of the reply statement of Respondent before Assistant Commissioner of Labour (Central).
- W20 15-02-05 Xerox copy of the rejoinder submitted by Petitioner.
- W21 28-02-05 Xerox copy of the failure report submitted by Assistant Commissioner of Labour (Central).

For the II Party/Management :

| Ex. No. | Date | Description |
|---------|----------|---|
| M1 | 17-08-71 | Xerox copy of the memorandum issued by Respondent. |
| M2 | 19-11-71 | Xerox copy of the letter given by Petitioner to Respondent. |
| M3 | 24-12-71 | Xerox copy of the letter from Petitioner to Respondent. |
| M4 | 03-04-72 | Xerox copy of the letter from Petitioner to Respondent. |
| M5 | 06-07-92 | Xerox copy of the letter from Petitioner to Respondent. Agreeing for the promotion of Accountant. |
| M6 | Nil | Xerox copy of the Service register. |
| M7 | 29-02-00 | Xerox copy of the competent authority. |
| M8 | Nil | Xerox copy of the memorandum issued by AGM of Respondent/Bank |

नई दिल्ली, 14 नवम्बर, 2006

का. आ. 4678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 32/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/277/2004-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2006

S.O. 4878.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2005) of the Central Government Industrial Tribunal/Labour

Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 13-11-2006.

[No. L-12012/277/2004-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 9th August, 2006

PRESENT

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 32/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen]

BETWEEN

Shri A. Madanabalan I Party/Petitioner

ANDThe Deputy General Manager,
State Bank of India, Chennai,

..... II Party/Management

APPEARANCE :

For the Petitioner : M/s. Balan Haridas &
R. Karnatchi Sundaresan,
Advocates.

For the Management : Sri V. R. Gopalrathnam,
Advocate.

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/277/2004-IR(B-I) dated 03/21/11/2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows : —

“Whether the action of the management of State Bank of India in imposing the punishment of discharge from service on Shri A. Madanabalan with effect from 25-1-2002 is justified or not? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 32/2005 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner joined the Respondent/Bank on 11-7-1985 as clerk-cum-cashier/typist and he has been working in Ashok Nagar branch of the Respondent/Bank. While so, Assistant General manager, Region II, Zonal Office placed the Petitioner under suspension on 10-11-1998 and issued chargesheet dated 19-6-1999. There are seven allegations levelled against the Petitioner. The allegations 1 to 6 and 1st part of 7 relate to the alleged receipt of money from customers as cashier and failed to account for the amount. The 2nd part of the 7th allegation is that the Petitioner had received Rs. 16,000 which is in excess of power of the teller. The Respondent/Bank also foisted a criminal proceedings against the Petitioner. The criminal case was taken by XI Metropolitan Magistrate, Daidapet, Chennai in C.C. No. 7512/2002 and after an elaborate trial, the Petitioner was acquitted by an order dated 27-2-2004. In the domestic enquiry, an enquiry was conducted but none of the customers have implicated the Petitioner nor correlated the Petitioner to the allegations. In the enquiry, the Petitioner has demonstrated his innocence alleging the signature in the counterfoils were not subject to any handwriting expert opinion to show that it belongs to the Petitioner. But the Enquiry Officer without any material, in a most perverse manner proceeded to hold that the signature in the counterfoil to be the signature of the Petitioner and therefore, he held all the allegations are proved. Even though there is no correlation between the signature in the counterfoil and the signature of the Petitioner, the Enquiry Officer has come to the perverse conclusion that they belong to the Petitioner. Even the witnesses who were examined in the domestic enquiry namely one Smt. Pushpalatha had deposed that she had remitted Rs. 16000 with the teller who was wearing spectacles. The another customer Smt. Lakshmi has deposed that she had given money to a teller who was lean and dark. The above descriptions given by the customers with regard to teller to whom they have given money did not tally with the Petitioner. Thus, they did not implicate the Petitioner in any way, but when there is no evidence on any sort, the Enquiry Officer has held that charges framed against the Petitioner have been proved which is illegal and contrary to law. The enquiry was not conducted in accordance with principles of natural justice. Therefore, imposition of any punishment much less the punishment of discharge does not arise. Thereafter the Disciplinary Authority issued 2nd show cause notice dated 19-12-2001 proposing the penalty of dismissal and recovery of Rs. 67,500. After hearing the Petitioner he has imposed the said punishment. Against this, even though the Petitioner preferred an appeal, the Appellate Authority has no doubt, modified the punishment of dismissal into discharge, but he has confirmed the order of Disciplinary Authority in all other respects. Since there is no legal evidence, the

punishment of discharge and recovery of Rs. 67,500 is illegal and contrary to law and this Tribunal in exercise of power under Section 11A of the I.D. Act has to interfere with the capital punishment of discharge imposed on the Petitioner. Hence, for all these reasons, the Petitioner prays to pass an award directing the Respondent to reinstate the Petitioner into service with full back wages, continuity of service and all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner was working as cashier and later as a teller at the Ashok Nagar branch of the Respondent/Bank has committed various misconducts numbering about seven for which, he was issued with chargesheet by the Disciplinary Authority. The charges levelled against him are on 18-5-1998 while working as cashier, the Petitioner received a sum of Rs. 10,000 over the counter for the credit of S.B. Account No. 16751 in the name of A. Vijay represented by his father Mr. Ambhinathan and issued counterfoil for receipt of the amount. However, deliberately omitted to account for this amount in the books of bank on the same day and misappropriated the money. Similarly, the Petitioner has received a sum of Rs. 10,000 for the credit of S.B. Account No. 17757 in the name of Deenadayalan and issued counterfoil for receipt of the amount and deliberately omitted to account for this amount in the books of account of bank on the same day and misappropriated the amount. Thirdly on 16-9-1998 the Petitioner while working as a cashier received a sum of Rs. 12,000 for the credit of S.B. Account No. 13755 in the name of Mrs. Lakshmi and issued a counterfoil for receipt of the amount but deliberately omitted to account for this amount in the books of bank on the same day and misappropriated the amount. Fourthly, on 23-9-1998 the Petitioner received a sum of Rs. 10,000 for credit of S.B. Account No. 25958 in the name of T. C. Ramamoorthy and issued counterfoil for the receipt of amount but deliberately omitted to account for this amount in the books of bank on the same day and misappropriated the amount. Fifthly, on 20-10-1998 while he was working as a Teller he received a sum of Rs. 5500 for credit of S.B. Account No. 25016 in the names of S. Thangavelu and T. Arivukalanjian and issued counterfoil for the receipt of amount but deliberately omitted to account for this amount in the books of bank on the same day and misappropriated the amount. Sixthly, on 21-10-1978 the Petitioner received a sum of Rs. 4,000 over counter for credit of S.B. Account No. 14438 in the name of Mr. Selvaraj and issued counterfoil for the receipt of amount but deliberately omitted to account for this amount in the books of bank on the same day and misappropriated the amount. Seventhly, on 21-10-1998 the Petitioner received a sum of Rs. 16,000 over the counter for the credit of S.B. Account No. 8909 in the names of N. Geetha and N. Susheela and issued counterfoil for the receipt of amount but deliberately omitted to account for this amount in the books of bank on the same day and misappropriated the amount. Further,

while receiving the amount of Rs. 16,000 on 21-10-1998 for the credit of S.B. Account No. 8909 he exceeded the powers of teller namely maximum amount permissible for the receipt of cash at one instance. Since the misappropriation of amount exposed the bank to a serious financial loss which was prejudicial to the interest of the bank, he was issued with charge memo and the Respondent/Bank conducted departmental enquiry. The Petitioner participated in the enquiry and his representative also represented him in the enquiry. The Petitioner was given full opportunity in the enquiry and it was conducted in a fair and just manner. The Enquiry Officer in his report also held that all the charges were proved against him. The Disciplinary Authority after considering the enquiry report and comments received from the Petitioner proposed the punishment of dismissal without notice and after hearing the Petitioner, he has imposed the punishment of dismissal without notice. Aggrieved by the said order of Disciplinary Authority, the Petitioner preferred an appeal to the Appellate Authority and the Appellate Authority after considering the grounds raised by the Petitioner took a lenient view and modified the punishment from dismissal to discharge by an order dated 4-4-2002. It is false to allege that the order passed by the Disciplinary Authority is illegal, arbitrary and contrary to law. No doubt, the Respondent lodged FIR with the police and they prosecuted the Petitioner. But the decision in the criminal case has no relevance to the dispute referred to this Tribunal. The departmental proceedings and criminal case are two different matters altogether and acquittal subsequent to holding of departmental proceedings does not vitiate the enquiry. It is false to allege that Enquiry Officer acted in a perverse manner or there was no legal evidence as alleged. The Petitioner's acquittal in criminal case does not disprove the hollowness of allegations in the chargesheet as stated by the Petitioner. The charges levelled against the Petitioner were proved in the departmental enquiry and the Petitioner availed the full opportunity by participating in the enquiry and since the misconduct proved were grave in nature, prejudicial to the interest of the bank and the Petitioner who was holding a post of trust in bank, which deals with public money, the punishment imposed was commensurate with the gravity of such misconduct. The Petitioner has betrayed the trust, the bank reposed in the Petitioner and as such the loss of confidence in the Petitioner is quite justifiable. Hence, for all these reasons, the Respondent prays that there needs no interference in the matter of punishment in the facts and circumstances of the case and prays to dismiss the claim of the Petitioner with costs.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/Management in imposing the punishment of discharge from service on the Petitioner w.e.f. 25-1-2002 is justified or not?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :

6. The admitted case of both sides in this dispute is that the Petitioner while he was working as a cashier/typist in Ashok Nagar branch of the Respondent/Bank, alleged to have been committed some misconducts numbering about seven for which he was issued with chargesheet by the Disciplinary Authority and an enquiry was conducted against him in which the Enquiry Officer has given a finding that all the charges framed against the Petitioner were proved. Subsequently, the Disciplinary Authority imposed the punishment of dismissal from service and which was modified by the Appellate Authority as discharge. The Petitioner produced five documents namely copy of the explanation to the charge memo as Ex. W1, copy of the comments an enquiry report as Ex. W2, copy of the appeal against the order of punishment as Ex. W3 and copy of judgement in C.C. No. 7512/2002 as Ex. W4 and copy of judgement in C.C. No. 935/2003 as Ex. W5. As against this, on the side of the Respondent/Management 10 documents were filed. Copy of the chargesheet issued to Petitioner as Ex. M1, copy of proceedings of enquiry as Ex. M2, copy of the enquiry report as Ex. M3, Xerox copy of the order of Disciplinary Authority dated 25-1-2002 as Ex. M4, copy of Presenting Officer's summing up as Ex. M5, Xerox copy of the defence counsel's summing up as Ex. M6, Xerox copy of the Disciplinary Authority's letter proposing the punishment as Ex. M7, Xerox copy of the order of punishment imposed by Disciplinary Authority dated 25-1-2002 as Ex. M8, Xerox copy of the order of Appellate Authority dated 4-4-2002 as Ex. M9 and copies of documents filed in enquiry proceedings as Ex. M10.

7. Learned counsel for the Petitioner argued that though seven charges framed against the Petitioner and though the Enquiry Officer has held that all the charges framed against the Petitioner have been proved, none of the charges have been actually proved, on the other hand, the Enquiry Officer has come to a perverse finding that the charges have been proved. Though some of the customers were examined in the domestic enquiry, none of the customers made in the deposition that money was tendered to the Petitioner and the same was not remitted in their account and he argued that for example Smt. Pushpalatha, a customer who had been examined in domestic enquiry had deposed that she had remitted Rs. 16,000 with a teller who was wearing spectacles and the other customer namely Smt. Lakshmi had deposed that she had given money to a teller who was lean and dark and thus, the above descriptions given by the customers with regard to teller and cashier to whom they have alleged to have given their money did not tally with the Petitioner. Thus, even the customer who have been examined by the Respondent/Bank did not implicate the Petitioner. No doubt, the Respondent/Bank produced some of the counterfoils alleged to have been given by the Petitioner to the customers. But, the Respondent/Bank has not proved that

these counterfoils were given by the Petitioner and the initial or signature found in the counterfoils are that of the Petitioner. Thus, the counterfoils produced by the Respondent/Bank have not implicated the Petitioner with the misconduct alleged against him. Further, in this case, Respondent/Bank has not clearly established from records that the Petitioner alone was working as a cashier/teller on the alleged days and the Petitioner alone has received the money from the customers on those alleged dates. Though the Respondent has got record to show that who has been worked as Receipt Cashier and who has been worked as Payment Cashier and who was working as tellers on those days, they have not clearly established this fact that Petitioner alone was working in all those days either as cashier or teller and received money from the customers, on the other hand, there is no evidence to hold that Petitioner was guilty of charges and the finding of the Enquiry Officer that the charges were proved against the Petitioner is illegal and contrary to law. It is not the case of the Respondent/Management that the Petitioner has admitted the initial or signature in the counterfoils. Under such circumstances, it is the bounden duty of the Respondent/Bank to establish that initial or signature found in the counterfoils are that of the Petitioner. For this, Respondent/Bank must have taken expert opinion to substantiate their claim or they must have produced admitted signature of the Petitioner before this incident to establish before the Enquiry Officer that on comparison of initial and signature found in counterfoils are tallied with the initial and signature of the admitted documents, but they have not done anything in that context, but on the other hand, the Enquiry Officer has wrongly come to the conclusion that the charges framed against the Petitioner have been proved. Thus, there is no material or evidence to establish that the Petitioner had deliberately done the misconduct namely he has omitted to account the amounts which he has alleged to have been received from the customer in the books of bank and misappropriated the amount. Furthermore, in respect of allegations mentioned in the chargesheet, the Respondent/Bank has also foisted a criminal proceedings against the Petitioner and in it, the Criminal Court namely XI Metropolitan Magistrate, Chennai in C.C. No. 7512/2002 and C.C. No. 935/2003 after an elaborate trial has come to the conclusion that the prosecution has not established the case and the Petitioner was honourably acquitted by an order dated 27-2-2004. In the criminal case, the criminal charges were framed against the Petitioner on the same allegations and therefore, when there was a honourable acquittal against the Petitioner, the same required to be taken note by the authorities and therefore, it cannot be held that the charges framed against the Petitioner have been proved. Thus, the Enquiry Officer in a most perverse manner has come to the conclusion that the signature or initial in the counterfoils to be the signature of the Petitioner and he has given a perverse finding that all the charges framed against the Petitioner have been

proved and the Petitioner has misappropriated the amounts of customers.

8. But, as against this, learned counsel for the Respondent contended that enquiry was conducted in a fair and proper manner and principles of natural justice was complied with and the Petitioner namely the charge-sheeted employee had fully participated in the enquiry and he cross-examined the witnesses produced by the Respondent/Bank through his representative. Inasmuch as the enquiry was conducted in a fair manner and the principles of natural justice complied with, the dispute raised by the petitioner is not tenable either in law or on facts. No doubt, the Respondent/Bank lodged an FIR with the police and the police department has prosecuted the Petitioner. Inasmuch as the fact that the Petitioner was acquitted subsequent to the conclusion of disciplinary proceedings resulting in imposition of punishment of dismissal by the Disciplinary Authority and subsequent modification by Appellate Authority in the appeal preferred by the Petitioner, the decision of criminal case has no relevance to the dispute referred to this Tribunal. He further argued that the departmental proceedings and criminal case are two different matters altogether and acquittal subsequent to holding of departmental proceedings does not vitiate the enquiry. It is false to allege that the Petitioner established his innocence in the enquiry. The witnesses examined on the side of the Respondent/Bank had clearly stated that they have given the amount to the Petitioner who was acting as cashier/teller and he has made entries in the passbook without making any entry in the books of accounts of the bank. Thus, the charges levelled against the Petitioner were proved in the enquiry and the Petitioner availed full opportunity by participating in the domestic enquiry. Inasmuch as the misconduct proved were grave in nature and prejudicial to the interest of the bank and the Petitioner who was holding the post of trust in the Respondent/Bank which deals with public money, the punishment imposed was commensurate with the gravity of such misconduct. Further, the Petitioner has betrayed the trust, the Respondent/Bank reposed on him and as such the loss of confidence by the bank on the Petitioner is quite justifiable. Under such circumstances, he argued that there is no need to interfere with the matter of punishment in the facts and circumstances of this case and he relied on the rulings reported in AIR 1996 SC 484 B.C. Chaturvedi Vs. Union of India wherein the Supreme Court has held that "the High Court/Tribunal while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the Disciplinary Authority or Appellate Authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the Disciplinary Authority or the Appellate Authority to reconsider the penalty imposed or to shorten the litigation,

it may itself, in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof. But, in cases, where it comes to the conclusion that the charges framed against the employee has been proved, it will not interfere with the punishment imposed by the Disciplinary Authority/Appellate Authority." The next rulings relied on by the learned counsel for the Respondent is reported in AIR 2003 SC 1796 Lalit Popli Vs. Canara Bank where in the Supreme Court has held that "when an employee is accepting that there was some lapse on his part but pleading lack of criminal intent, even to naked eye mistakes in spelling of 'signature' were visible and should not have escaped eyes of bank employee who is supposed to be trained and equipped to notice such glaring mistakes. The nature of work of bank employee demands vigilance with inbuilt requirement to act carefully and therefore, the order of dismissal is to be upheld." Further, the Supreme Court has held "that the approach and objective in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would merit action against him, whereas in criminal proceedings the question is whether the offences registered against him are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. In the case of disciplinary enquiry, the technical rules of evidence have no application. The doctrine of proof beyond doubt has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct." Learned counsel for the Respondent further relied on the rulings reported in 2004 IND Law SC 593 Allahabad District Co-Operative Bank Ltd. Vs. Vidhya Varidh Mishra wherein the Supreme Court has held that "termination was pursuant disciplinary inquiry and in disciplinary inquiry a conclusion different from that arrived at by a Criminal Court may be arrived at and strict burden of proof required to establish guilt in criminal court, whereas it is not required in the disciplinary proceedings." He further relied on the rulings reported in 2000 IND Law MAD 273 Kulandaivelu K. Vs. Appellate Authority under Tamil Nadu Shops and Establishments Act wherein the Madras High Court has come to the conclusion that "in a case of proved misappropriation, when the charge is made out with regard to the misappropriation of funds, the workman did not deserve any mercy and the just and proper punishment is nothing short of dismissal from service, since the proved charge is very grave namely misappropriation of funds of Rs. 15,000". He further relied on the rulings reported in 2003 11 LLJ 279 Managing Director, North East Karnataka Road Transport Corporation, Gulbarga Vs. Ibrahim wherein the High Court of Karnataka in a similar case had come to the conclusion that "when misappropriation stood proved,

only an appropriate punishment held to be dismissal from service without showing any sympathy and it would be a misplaced sympathy to order reinstatement of the Respondent." Learned counsel for the Respondent further contended that though it is argued that customers who have been examined in domestic enquiry have not identified the Petitioner as cashier or teller on the dates on which they have deposited the amounts, one of the witnesses have stated that she has paid the amount to the Petitioner who was chargesheeted by the Respondent/Bank. Under such circumstances, it cannot be said that customers have not identified the Petitioner as cashier or teller on the dates on which they have deposited amount into the bank.

9. But, again learned counsel for the Petitioner contended that though it is alleged that one witness has stated that she has paid the amount to the Petitioner, she has not clearly stated in her evidence that she has paid the amount to the Petitioner and she vaguely alleged that the person who was in the counter was wearing spectacles and other thing which is not actually identified as Petitioner. Further, in this case it is admitted that for the same alleged incident, the Respondent/Bank has initiated criminal proceedings and in the criminal proceedings the Court has come to the conclusion that the charges framed against the Petitioner have not been proved and the Petitioner was honourably acquitted in the criminal case. In such circumstances, when the Supreme Court has considered a similar situation in a case reported in 2006 4 SC 740 G. M. Tank Vs. State of Gujarat and Another, it has held that "in our opinion, such facts and evidence in the department as well as criminal proceedings were the same without there being any iota of difference, the appellate should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of approach and burden of proof would not be applicable in the instant case. Though the findings recorded in domestic enquiry was found to be valid by the Courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal the same requires to be taken note of and the decision in Paul Anthony's case 1999 3 SCC 679 will apply and therefore, we hold that the appeal filed by the appellant deserves to be allowed." In that case before the Supreme Court, a chargesheet was issued alleging that the employee had illegally accumulated excess income by way of gratification and as per departmental enquiry report, the appellant was found guilty of charge. Criminal case was filed against appellant for offence punishable u/s. 5(1)(e) read with Section 5(2) of Prevention of Corruption Act and Special Judge honourably acquitted the appellant from the offence and the acquittal is by way of complete exoneration and not by giving benefit of doubt. The Respondent has not challenged the order passed by the Special Judge, therefore, there is no evidence against the appellant to hold that the appellant was guilty of having illegally accumulated excess income. Therefore,

the Supreme Court has set aside the order and held the appellant is entitled to pension. The next decision relied on by the Petitioner is reported in 2006 Writ LR 340 V. Kanagasabapathy Vs. Deputy Inspector General of Police, Villupuram & Another wherein the Madras High Court has held that "a perusal of charge memo impugned in this Writ Petition discloses that the charge framed against the Petitioner both in the departmental proceeding as well as in the criminal case are one and the same. Both charges arise out of the same incident and same set of facts. In view of the fact that the criminal court has acquitted the Petitioner on merits it is not desirable on the part of the Respondents to proceed with the departmental proceeding and consequently, the impugned charge memo is liable to be set aside." Learned counsel for the Petitioner further relied on the rulings reported in 2006 3 CTC 39 wherein the Division Bench of Madras High Court has held that "in cases, especially where defendant denies all signatures and attempts to defeat plaintiff's claim, Court can compare signatures and give its finding and it is not necessary that plaintiff should take steps to get signatures compared by an expert. Law is well settled that disputed signatures can be compared with admitted signatures which are contemporaneous and not obtained subsequent to date of disputed signatures." Relying on these decisions, learned counsel for the Petitioner contended that in this case, the Respondent/Bank has not established the fact that initial found in the counterfoils are that of the Petitioner. Further, they have not produced any admitted documents prior to incident or contemporaneous to the document. Under such circumstances, neither the Enquiry Officer nor the Disciplinary Authority has stated how they have come to the conclusion that the initials or signatures in the counterfoils are that of the Petitioner. When the Petitioner has denied the initials/signatures in the counterfoil/disputed document, the burden is upon the Respondent/Bank to establish that these initial/signature is that of the Petitioner. Further, when none of the witnesses has stated that they have deposited the amount only to the Petitioner or they have obtained entries in the passbook only through the Petitioner, it cannot be said that the Petitioner has received the amounts from the customers and misappropriated the amounts. It is an admitted fact that none of the payments alleged to have been made by the customers have been found in the day book or cashier scroll. Under such circumstances, the burden is upon the Respondent to establish that it is only the Petitioner, who was acting as cashier/teller on the alleged dates, though made initials or signatures in the counterfoils given by the customers, has not made any entries in the books of accounts of the bank. But, they have not established this fact with any satisfactory evidence. Under such circumstances, the finding giving by the Enquiry Officer is perverse and without any material evidence. Therefore, this Tribunal can come to the conclusion that the

punishment imposed by the Disciplinary Authority is shocking the conscience of the Tribunal.

10. I find much force in the contention of the learned counsel for the Petitioner.

11. But, on the other hand, learned counsel for the Respondent contended that the Petitioner betrayed the trust the Respondent/Bank reposed on him and as such, loss of confidence on the Petitioner by the Respondent/Bank is quite justifiable and therefore, it cannot be said that reinstatement is the remedy in this case.

12. But, I am not in a position to accept the contention of the learned counsel for the Respondent because, the Respondent/Bank has not established the charges framed against the Petitioner. But, they want to allege that they have lost confidence against the Petitioner. Under such circumstances, I find the action of the Respondent/Management in imposing the punishment of discharge from service on the Petitioner is not justified.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

13. In view of my foregoing findings that imposition of punishment by the Respondent/Management against the Petitioner is not justified, I find the Petitioner is to be reinstated in service. Therefore, I direct the Respondent/Management to reinstate the Petitioner into service with continuity of service and all other attendant benefits, but with regard to back wages, the Petitioner has not adduced any evidence to show that from the date of his discharge, he was without any job or without any gainful employment. Under such circumstances, I find with regard to back wages, half of the wages would be justifiable. Ordered accordingly. No Costs.

14. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 9th August, 2006).

K. JAYARAMAN, Presiding Officer.

Witnesses Examined :

On either side : NONE

Documents Marked :

For the I Party/Petitioner :

| Ex. No. | Date | Description |
|---------|------------|---|
| W1 | 13-07-1999 | Xerox copy of the explanation to charge memo. |
| W2 | 05-09-2001 | Xerox copy of the comments on enquiry report. |

| | | |
|----|------------|---|
| W3 | 11-02-2002 | Xerox copy of the appeal against the order of punishment. |
| W4 | 27-02-2004 | Xerox copy of the judgement in CC No. 7512/2002. |
| W5 | 27-02-2004 | Xerox copy of the judgement in CC No. 935/2003. |

Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 13-11-06.

[No. L-41011/54/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

For the II Party/Management :

| Ex. No. | Date | Description |
|---------|------------|--|
| M1 | 19-06-1999 | Xerox copy of the charge sheet issued to Petitioner. |
| M2 | 29-09-1999 | Xerox copy of the proceedings of enquiry. |
| M3 | 16-05-2001 | Xerox copy of the enquiry report. |
| M4 | 25-01-2002 | Xerox copy of the order of Disciplinary Authority. |
| M5 | 10-11-2000 | Xerox copy of the Presenting Officer's summing up. |
| M6 | 27-03-2001 | Xerox copy of the defence counsel's summing up. |
| M7 | 19-12-2001 | Xerox copy of the letter of Disciplinary Authority proposing Punishment. |
| M8 | 25-01-2002 | Xerox copy of the order of Disciplinary Authority. |
| M9 | 04-04-2002 | Xerox copy of the order of Appellate Authority. |
| M10 | Nil | Xerox copy of the exhibits filed in enquiry proceedings. |

नई दिल्ली, 14 नवम्बर, 2006

का. आ. 4679.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सार्दन रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 45/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-41011/54/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2006

S.O. 4679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 45/2005) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 3rd August, 2006

PRESENT:

Shri K. Jayaraman, Presiding Officer

Industrial Dispute No. 45/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Southern Railway and their workmen)

BETWEEN:

The Divisional Secretary, : I Party/Claimant
All India Station Masters'
Association, Madurai.

AND

The Divisional Railway : II Party/
Manager, Southern Management
Railway, Madurai Division,
Madurai.

APPEARANCE:

For the Claimant : M/s. M. Chandran and
N. Shanmugasundaram,
Authorised Representa-
tives

For the Management : Sri G. Kalyan, Advocate.

AWARD

The Central Government, Ministry of Labour vide Order No. L-41011/54/2001-IR(B-I) dated 31-5-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the present mode of payment of PLB to traffic staff in Southern Railway, Madurai Division is legal and puts them into hardship or not? If not, what relief could be given to them?”

2. After the receipt of the reference, it was taken on file as I. D. No. 45/2005 and notices were issued to both the

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parties and the I Party/Claimant entered appearance through authorised representative and II Party/Management entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner association in the Claim Statement are briefly as follows :

The Petitioner Association is highlighting the necessity of changing the present mode of 'cashier payment' the most primitive system and very much inconvenient to either 'station payment' or 'bank payment' based on the Railway Board Orders which is the most convenient mode of payment for all the employees. In all other divisions of Southern Railway which comes under one single administrative head namely General Manager, Southern Railway for bonus disbursement much convenient system of disbursement namely 'station payment' is being adopted. In Madurai division also this system of payment was in vogue for some time and later it was changed as 'cashier payment' against Railway Board orders which is the most unsafe mode of payment. Under cashier payment system, a travelling cashier is arranged to disburse payments due to open line employees, working at different wayside stations and this travelling cashier will be travelling by a passenger train which stops at all stations or by a motor trolley or by a van by road, thereby open line staff are compelled to wait for the cashier to come and disburse payment. As a result, every employee at a way side station who is advised about the date of payment but not exact arrival time of cashier at a particular station is made to wait hours together looking for arrival of cashier to receive his or her payment. Because of this the employee who are on their weekly rest are forced to forego their weekly rest and to wait at the station and some employees are forced to forego their legitimate statutory rest available between two spells of duties by waiting at the station for receiving payment and it is a gross violation of HOER. Forcing an employee of safety category to forego his mandatory rest prescribed to be availed before and after duty hours is totally against the Safety Working system of railways and will indirectly end up in a major disaster. Employees are forced to stay at the station after performing strenuous and hazardous right duties unable to take any rest. Even when those who are on a day's leave has to report back at their station to receive their payment and the purpose for which leave availed is also getting defeated. Furthermore, if an employee could not be present on the date of cashier's visit for the purpose of disbursement at a wayside station, will have to wait upto next programmed movement of the cashier to get their payment otherwise he has to go to Head Office at

Madurai to get his payment as 'Out Station Payment' at his own risk and expenses and for this he will have to take a minimum of three days personal leave. Thus, the 'cash payment' system to open line employees is not only causing inconvenience to staff but also swaying acts endangering safety in working of trains. On the other hand, the 'station payment system' and 'bank payment system' are the most convenient and safer systems of payment for open line employees. By this station payment system, the payment due to all employees at a station will be handed over to Station Master on duty who in turn will disburse the cash to every employee at his station at a convenient time. Moreover, such payment of cash due to all employees will be at the station itself for three days. Within these three days time all the employees will get their payment through station master on duty without any inconvenience. Above all this, 'station payment system' will never cause for violation of the statutory provisions of HOER. Further payments due to the employees through bank is effectively in vogue for over 15 years, this system of station payment is the safest system adopted in most of the divisions in Southern Railway. The Petitioner is demanding for disbursement of bonus either as 'station payment system' or 'bank payment system' as adopted for disbursement of salary of employees. Bonus is a wage in terms of the law settled by High Court. Bonus should be paid like wages as directed under Payment of Wages Act, whereas, Madurai Divisional Administration declines to adopt statutory provisions of Chapter XIX for cash and pay department in the accounts code, Pay and Accounts Manual and contends that cashier payment is an established procedure since 1979. Therefore, it is not only illegal but also arbitrary against the stipulated norms. The railway administration is advocating the receipt of salary and other payments of its employees through bank. But the Respondent/Management is indirectly discouraging the same by insisting for fresh application every year to get our bonus payment through bank, though we are receiving our payment through bank. Therefore, the Petitioner association prays to direct the employer to adopt either station payment or bank payment while making all sorts of payments both in the interest of staff as well as safety and efficiency in the working of the railway service.

4. As against this, the Respondent in its Counter Statement contended that system of making payment through cashier has been in vogue since 1979 and the system has been working well without any problem. There is no necessity to disturb a well established system that has been functioning well for over two decades. The Petitioner's demand for changing over to station payment

do not reflect the existence of any real problem. There is no specific order from railway board to the effect that bonus payment should be arranged through station payment. Southern Railway has five divisions in its fold and all the five divisions are not uniform in its character and each division has its own peculiarities and the divisions are free to adopt their own methods in regard to making other than salary payments such as arrears of D. A. bonus etc. in consultation with the recognised trade union representing the cause of employees of Madurai Division as long as it is not violative of any of the provisions of labour legislations and Railway Board's orders. It is false to contend that there is a violation of Hours of Employment Regulations and bonus payment is made only once in a year and hence there may not be any violation of HOER as contended by the Petitioner. Payment of salary is not possible to be made on a single day for all categories of employees and for this purpose different salary dates are prescribed for different departments. Productivity linked bonus for railway employees is one time yearly payment and orders for the same are issued by Railway Board every year and the Board directed that this bonus should be disbursed before the onset of pooja holidays. Madurai Divisional Administration in consultation with the recognised trade unions i.e. Southern Railway Employees Sangh and Southern Railway Mazdoor Union draws out special payment programme to disburse productivity linked bonus. The said unions also requested them for continuing this arrangement of cashier payment during consultation. It is false to contend that night duty staff are made to wait for long hours, since all stations are connected with well established communication system and station masters can very well know the probable time of arrival of cashiers at each station and he can very well note and notify the same to the staff under his control. The allegation that employees are forced to forego their weekly rest is far from the truth. It is also a fact that each day is a rest day for one employee or the other and system of payment cannot be changed for such trivial issue and the employees on rest would not normally have any grudge to come and receive the bonus payment even on rest day since with the amount paid as bonus, they are having moral responsibility to attend to their family needs for ensuing festivals. Payment at the time of arrival of cashier at station should absolutely pose no problem whatsoever and the claim of the Petitioner in this regard is only a figment of imagination. Further, there is no safety violation at all and the Petitioner is making a mountain out of a molehill. Since the divisional peculiarities do not allow change over to a new system Payment and any change over can be effected only with the consent of both the recognised unions and any unilateral action will endanger industrial safety. Further the system of handing over and taking over of cash payment through station master is not possible for other than traffic staff for the purpose of identification and certification of the correct person. Previously in order to enable the employees to have a look at the amounts actually

claimed in their favour the system of station payment was adopted. Now the scenario has totally changed and every employee is given a full fledged salary slip which contains all details of pay and allowances and deductions and pay slips are given to the employees well before the date of payment. In view of the above, the claim of the Petitioner for station payment of bonus is devoid of any merit. Productivity linked bonus payable to each employee is known to them in advance. Under such circumstances, there is no logic in asking for station payment of bonus. Nearly 50% of employees receive their salary through banks and bonus is paid through cashiers every year. The Respondent is making arrangements every year to disburse the productivity linked bonus amount through bank also in the case of employees who prefer to receive the same through the bank. Therefore, the Respondent cannot on their own arrange payment of bonus through bank in respect of all employees inasmuch as such action will amount to violation of individual rights of employees in this regard and Respondents cannot take any such action unless employees give it in writing to receive the bonus amount through their bank account. Employees can avail of bank payment facility duly submitting their option every year. Therefore, the request of the Petitioner has no merit whatsoever. Hence, he prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my consideration are —

- (i) Whether the present mode of payment of PLB to traffic staff in Madurai Division is legal and whether it puts the members of the Petitioner union into hardship?
- (ii) To what relief the Petitioner is entitled?

Point No. 1 :

6. The case of the Petitioner association in this dispute is that the process of payment of bonus to staff at road side stations was proposed through cashiers and the same did not have the sanction from statutes; the present dispute was raised and they want instead of 'cashier payment' 'station payment' at intermediate road side stations and payments through bank is to be adopted and for this they alleged that cashier payment would pave way for foregoing statutory rest prescribed between two spells of duty under HOER. They further alleged that cashier payment introduced by Madurai Divisional Administration was not consistent with statutory provisions in the Accounts Code and Pay and Accounts Manual and the cashier payment adopted by the Respondent/Management was not incoherent with the mandatory instructions advocating payments through banks issued by the Railway Board and the cashier payment drains exchequer.

7. On the other hand, the Respondent contended that in Southern Railway there are five divisions and they are free to adopt their own method of payment and the

cashier payment was working well and there is no specific order from Railway Board either proposing bonus payment through banks or restraining cashier payment was received and the productivity linked bonus to all the employees was sought be paid in advance to pooja festival and such bonus payment was made through cashiers and there is no harm in disbursing bonus through cashiers.

8. In order to establish their case, the Petitioner union examined the Divisional Secretary Mr. Vijayaraghavan as WW1 and marked Ex. W1 namely copy of CPO/MAS letter dated 27-8-2004 which contains other letters of the Respondent/Management. According to the Petitioner union if the cashier payment system is adopted, travelling cashier is arranged to disburse payments due to open line employees working at different wayside stations, the cashier should travel by a passenger train which stops at all stations or by a motor trolley or by a van by road and by this method, payments are being made to open timings convenient to the travelling cashiers and thereby open line staff are compelled to await for cashiers to come and disburse payment. Therefore, the employees at wayside station who are advised about the date of payment but not the exact arrival time of the cashier at the particular station are made to wait hours together looking for the arrival of cashier to receive their payments. Further, employees who are on weekly rest are forced to forego their weekly rest and to wait at the station. Thus, they are forced to forego their legitimate statutory rest available between two spells of duties by waiting at the station for receiving payment which is a gross violation of HOER (Hours of Employment Regulation). Further, forcing an employee of safety category to forego his mandatory rest prescribed to be availed before and after duty hours is totally against the safety working system in railways. Thirdly, the employees are forced to stay at the station after performing strenuous and hazardous night duties and they are unable to take any rest due to arrival of the cashier. If the employees are on leave, they have to report back at their stations to receive their payment and the purpose for which leave availed is also getting defeated. Lastly, employee who could not present on the date of cashier's visit for the purpose of disbursement at a wayside station, will have to wait upto the next programmed movement of the cashier to get their payment otherwise, they have to go to Head Office at Madurai to get their payment as 'Outstation payment' at their own risk and expenses and for which they have to take minimum of three days personal leave. Therefore, it is not only causing inconvenience to staff but also swaying acts endangering safety in working of trains. On the other hand, on behalf of the Petitioner, it is contended that in the station payment system, the payment due to all employees at a station will be handed over to Stationmaster on duty who in turn will disburse the cash to every employee at his station at a convenient time and this payment will be at the station itself for three days. Thus, the employees will get their

payment through stationmaster on duty without any inconvenience and it will never cause any violation of statutory provisions of HOER. Similarly, in the system of payment through bank, there will be no inconvenience to either the Respondent/Management or employees.

9. But, on the other hand, learned counsel for the Respondent contended that Railway Board issued orders for payment of productivity linked bonus is to be paid to employees in consultation with recognised trade unions and in this case, recognised unions namely Southern Railway Employees Sangh (SRES) and Southern Railway Mazdoor Union (SRMU) have requested for continuing the arrangement of cashier payment and therefore, any change in the system can be effected only with the consent of recognised unions and any unilateral action will endanger industrial safety. Further, it is contended that on behalf of the Respondent productivity linked bonus for railway employees is the one time yearly payment and the system of making payment through cashier has been adopted from 1979 and system is working well without any problem and therefore, there is no necessity to disturb the well established system that has been functioning for over two decades. On behalf of the Respondent it is further contended that the allegation made by the Petitioner do not reflect existence of any real problem. It is further contended that Railway Board has not ordered any payment of bonus through 'station payment'. It is false to allege that there is violation of HOER as contended by the Petitioner union. Since the bonus payment is made once in a year, there may not be any violation of HOER as contended by the Petitioner union. In almost all the wayside stations, staff members are provided with railway quarters unless they prefer to stay in nearby areas on their own violation. Further, night duty staff are made to wait for long hours is far from truth since all stations are connected with well established communication system and stationmasters can very well note and notify the same to the staff under his control. No doubt, it is impossible for the Respondent/Management to advise the exact time of arrival of cashiers at each station, on the other hand, it is the duty of each Stationmaster who is manning the station at appropriate time to make it convenient for the station staff to receive payment without any inconvenience. In this behalf, the Petitioner is making wild allegations without any basis. It is further false to contend that employees are forced to forego their weekly rest. The system of payment through cashier cannot be changed for such trivial issue and the employees on rest would not normally have any grudge to come and receive the productivity linked bonus payment even on rest day, since with the amount paid as bonus, they are having moral responsibility to attend to their family needs. Therefore, the payment through cashier should absolutely pose no problem whatsoever and the claim of the Petitioner is only a figment of imagination.

10. But, again the representative for the Petitioner union contended that the contention that there is no violation of HOER is insignificant on the ground that payment of bonus takes place once in a year because railway employees in general, and stationmasters in specific are working in open line involving duties linked to running of trains perform round the clock in a day and this duties spread over 2 or 3 or 4 shifts a day. On the other hand, HOER prescribes for statutory rest of 8 hours for two shifts, 10 hours for three shifts and 12 hours for four shifts and therefore, every employee is advised to avail proper rest in advance of ensuing shift. Any failure in availing proper rest before taking up duty, was attributed as a cause for major accidents because payment takes place once a year, violation of HOER which may endanger safety in the working of trains shall not be permitted. He further contended that the contention of the Respondent that there was no instruction from Railway Board directing for payment through bank is misleading because even from Ex. W1 which clearly establishes that direction was given to railway administration to persuade for payments through banks. Therefore, he prays that this Tribunal must direct the Respondent/Management to arrange to effect all payments, namely salary, arrears of pay, advances including PF etc. and also bonus payment that are made from time to time with reference to the options already exercised for payment through banks as well to accept fresh options for making payments through banks and to pass an award to that effect.

11. I find much force in the contention of the representative for the Petitioner because from Ex. W1, it is clear that railway administration has appealed to all the employees with regard to payment through banks on the ground that payment through banking system avoids pick-pocketing by miscreants on the way home through public transports on payment days, Further, this system induces habit of need based withdrawal from the bank account and leaving the rest for the interest to be accumulated thereon and avoid unnecessary expenditure and develops the habit of saving. Thirdly, savings through this system seem to be small but it helps individually and severally to our nation. Therefore, administration requests employees to receive their salary and all payments through nationalised banks. At the same time, the administration cannot compel the employees to receive payment only through bank, therefore, an option must be exercised by employees. Under such circumstances, I find though the present mode of payment namely 'cashier payment' of productivity linked bonus to traffic staff in Madurai division of Southern Railway cannot be said as illegal, since the Petitioner association has shown the hardship in the present system, I find payment through the bank can be adopted with regard to payment of productivity linked bonus in the said division.

Point No. 2:

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. In view of the foregoing findings, I find that present mode of payment of PLB to traffic staff in Madurai Division cannot be said as illegal. However, since the Petitioner union has shown the hardship caused to the traffic staff, the productivity linked bonus payment should be made to traffic staff with reference to the options already exercised by them for payment through banks, the Respondent/Management has to accept fresh options for making payments through banks. But, at the same time, the Respondent/Management cannot compel that the payment being made only through bank to the entire staff and the Respondent has to act according to their options. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd August, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner : WW1 Sri R. Vijayaraghavan

For the Respondent : None

Documents Marked :

For the I Party/Claimant :

| Ex. No. | Date | Description |
|---------|---------|---|
| W1 | 27-8-04 | Xerox copy of the letter from Divisional Office to All supervisory officials regarding payment of salary by cheque. |
| W2 | 24-1-94 | Xerox copy of the letter from Divisional Personnel Officer. To All supervisory officials regarding payment of salary by Cheque. |
| W3 | 30-7-85 | Xerox copy of the circulars issued by Headquarters office, Personnel branch as an appeal to all staff of Southern Railway Regarding system of payment through bank. |

For the II Party/Management : Nil.

नई दिल्ली, 14 नवम्बर, 2006

का. आ. 4680.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारेण मैं, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 117/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-12012/71/2005-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2006

S.O. 4680.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/2005) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 13-11-06.

[No. L-12012/71/2005-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 18th August, 2006

PRESENT:

Shri K. Jayaraman, Presiding Officer

Industrial Dispute No. 117/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN:

Sri B. Muthukumar : I Party/Petitioner

AND

The Deputy General : II Party/Management
Manager, State Bank
of India, Z. O., Coimbatore

APPEARANCE:

For the Petitioner : Sri V. S. Ekambaram,
Authorised Representative.

For the Management : Sri V. R. Gopalrathnam,
Advocate.

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/71/2005-IR(B-I) dated 8-11-2005 has

referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of State Bank of India in dismissing the services of Shri B. Muthukumar, an Ex-Assistant is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I. D. No. 117/2005 and notices were issued to both the parties and the I Party entered appearance through his authorised representative and filed Claim Statement and the II Party/Management entered appearance through their advocates and filed Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner entered into the services of the Respondent/Bank in April, 1994. While he was working as Assistant at Ketti Valley branch of the Respondent/Bank disciplinary proceedings were taken against him on the allegation that he has committed some misconduct during the period 1999-2001 and pending initiation of appropriate disciplinary action, he was placed under suspension during July, 2001. On 31-7-2001 the Respondent/Bank mentioning several allegations “a” to “I” calling for explanation and without reference to the explanation, the Disciplinary Authority ordered for enquiry on 11-2-2002. But even before the disciplinary proceedings, the Petitioner has sent a written representation on 25-3-2001 to the Assistant General Manager Region-II, Coimbatore, furnishing the irregularities/fraudulent acts of certain officials/staff of Ketti Valley branch. During the enquiry, the Respondent/Bank produced 11 persons as witnesses comprising of both account holders and branch staff of Ketti Valley branch. But the enquiry was not held as per proper procedure and it was held in utter disregard to the principles of natural justice. In the enquiry, the Presenting Officer has put all leading questions to the management witnesses, which is highly improper against the procedure in conducting domestic enquiry which caused serious prejudice to the Petitioner and thus, it is vitiated. The punishment proposed was not based on the report of the findings of the Enquiry Officer dated 21-1-2003. The Disciplinary Authority has not given any opportunity to make his submission/comments which is highly irregular and against the principles of natural justice. The final order carries fresh allegations/charges against the Petitioner. The appeal referred against the order of punishment has been rejected without affording a personal hearing to the Petitioner as per procedure provided in Bipartite Settlement. Further, list of documents were given only at the enquiry and not prior to the commencement of enquiry. No list of

witnesses proposed to be examined as prosecution witness were given. Many of the documents were not marked through makers thereof. All the accountholders alleged to have been affected on account of the alleged irregularities in their accounts were not produced excepting a few. Mr. M. Vargheese was not produced for cross examination although his letter was marked as exhibit in the enquiry. Complaint letters from the accountholders produced were obtained after issuing of charge sheet. Xerox copy of all documents alone were marked and they have not stated any reason for not producing the originals. Further, without subjecting himself as a witness, the Petitioner was cross examined by the Presenting Officer. The punishment imposed by the Disciplinary Authority is not in conformity with the punishment enumerated in the settlement. Thus, the punishment imposed by the Disciplinary Authority is not in accordance with the principles of natural justice. The Disciplinary Authority was also not given the quantum of punishment for each and every proven charges but merely imposed the punishment. The staff who were indulged in the act of deceiving/cheating several Recurring deposit account holders, with a view to make the Petitioner as a scapegoat. Even though the Disciplinary Authority has mentioned loss to the tune of Rs. 640,820 in the final order of punishment, the Respondent/Bank has not placed any material in this regard before the enquiry held against the Petitioner. Though, it is alleged that Respondent/Bank conducted investigation into the alleged irregularities, neither the investigation report nor the investigating officer was brought before the enquiry. The entire proceedings held against the Petitioner is vitiated on account of non-observance of principles of natural justice and various other shortcomings and lapses in conduct of enquiry. Hence, for all these reasons, the Petitioner prays that the imposition of punishment on him is illegal and unjustified and prays this Tribunal to pass an award for reinstatement with back wages and other attendant benefits.

4. As against this, the Respondent in its Counter Statement alleged that Petitioner was dismissed from service on 19-7-2003 by the Disciplinary Authority after holding disciplinary proceedings for several misconducts and after providing the Petitioner a personal hearing which was also confirmed by the Appellate Authority. The Petitioner while working in Ketti Valley branch as a clerk-cum-cashier committed several misconducts namely he has raised fictitious credits in various SB accounts during 1999-2001 and posted the extraneous credits in the ledger accounts; the Petitioner fraudulently prepared withdrawal forms forging the signature of the account holders and posted them in ledger accounts and passed the same for payment

and unauthorisedly obtained payment from payment cashier and in some cases, the Petitioner had checked the day books; the Petitioner has raised fictitious entries in STDR and STDR interest Accounts with a view to avoid detection of fraudulent withdrawals made by him in various SB Accounts; he had destroyed the account opening form and transaction sheet in SB account and destroyed account opening form and ledger sheet in an inoperative account and he borrowed from a customer and make a fictitious credit entry in the customer's account. For these charges, charge sheet dated 31-12-2002 containing 12 charges was issued to him. The Enquiry Officer conducted the enquiry on various dates and the Respondent/Bank examined 11 witnesses and marked exhibits on its behalf. The principles of natural justice was complied with while conducting the enquiry and the Petitioner had been given full opportunity to defend himself. The Enquiry Officer submitted a report on 24-1-2003 stating that charges 1 to 4, 7, 8 and 10 to 12 were proved and he also held that charge No. 6 as partly proved and charges 5 and 9 alone were not proved. The Disciplinary Authority after following the procedure has concurred with the findings of the Enquiry Officer except the charge No. 10 and he proposed the punishment of dismissal without notice. After giving an opportunity to the Petitioner, the Disciplinary Authority imposed the punishment of dismissal by his order dated 19-7-2003 and he treated the period of suspension as such. On the appeal, preferred by the Petitioner to the Appellate Authority, the Appellate Authority after considering the material on record has confirmed the punishment of Disciplinary Authority by his order dated 15-11-2003. Though the Petitioner made allegations that only at the instance of few other staff of the bank, he had committed misconducts is without any substance and he made allegations against few staff members only after he was placed under suspension. The allegations are only self-serving with a view to mislead the authorities. The Petitioner cannot after having participated in the enquiry proceedings questioned the validity or otherwise of such proceedings. The proceedings in the enquiry were conducted in accordance with the principles of natural justice. It is false to allege the Enquiry Officer or Presenting Officer exploited the situation at the enquiry in respect of the alleged lack of knowledge or for any other reason. The total amount of loss caused has been taken into consideration by the Disciplinary Authority in imposing the punishment and to show that the punishment was not disproportionate to the gravity of the misconduct. The Petitioner has not raised any objection to the quantum of loss in the appeal preferred by him, therefore, he is now estopped from raising any objection to that. Since the Petitioner has not sought personal hearing in appeal, he was not afforded and therefore, he cannot make any complaint for not providing personal hearing. It is false to allege that Respondent obtained letters from few witnesses regarding the misconduct of the Petitioner subsequent to

the issue of chargesheet. The charges were proved not solely on the basis of such letters. Only because the originals were in the custody of police authorities for their investigation, photocopies of documents were produced before departmental proceedings. The Petitioner having not raised any objection at the material point of time, cannot now raised any objection for the same. Since the misconduct committed by the Petitioner is very grave and serious in nature which has the effect of shaking confidence of the bank reposed on him and such misconduct has the effect of tarnishing the image of the bank in the eyes of public, the Disciplinary Authority imposed the punishment of dismissal. It is false to allege that there has been violation of principles of natural justice. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :

- (i) "Whether the action of the Respondent/Management in dismissing the services of Petitioner is legal and justified ?"
- (ii) "To what relief the Petitioner is entitled ?"

Point No. 1 :

6. In this case, Respondent/Bank charged the Petitioner, a clerk-cum-cashier in the Respondent/Bank at Ketti Valley branch that he raised fictitious credit in various savings bank accounts during the period 1999-2001 and posted extraneous credits in ledger accounts and further he fraudulently prepared withdrawal forms forging the signature of the account holders and posted them in ledger accounts and passed the same for payment and unauthorisedly obtained payment from payment cashier and further, the Petitioner has raised fictitious entries in STDR and STDR interest accounts with a view to avoid detection of fraudulent withdrawals made by him in various SB Accounts and he had destroyed the account opening form and transaction sheet in SB account and destroyed account opening form and ledger sheet in an inoperative account and he also destroyed the ledger sheet of an account holder Smt. R. Chandra upto February, 2000 and lastly, he borrowed from a customer and made a fictitious credit entry in the customer's account. Therefore, the charge sheet has been framed against the Petitioner and as many as 12 charges were framed against him. In the domestic enquiry, the Enquiry Officer has held that except three charges, with regard to other charges they have been proved against the Petitioner and the Disciplinary Authority has concurred with the findings of Enquiry Officer except in one charge. Thus, the Disciplinary Authority has imposed the punishment of dismissal of Petitioner without notice.

7. In this case, on behalf of the Petitioner 21 documents were filed as Exs. W1 to W21 and on the side of the Respondent one Mr. Govindaraj, Manager in the

disciplinary proceedings section of Coimbatore Zonal Office was examined as MW1 and documents Exs. M1 to M9 were filed on their side.

8. Learned representative for the Petitioner argued that no doubt 12 charges were framed against the Petitioner but the Respondent/Bank has not only charged the Petitioner but they have also charged Mr. K.T. Raman, Special Assistant, Mr. M. Varghese, Cashier, Mr. John Devadoss Branch Manager, and R. Lakshmanan, Assistant Manager of Ketty Valley branch of Respondent/Bank for the same misconduct. But chargesheets have been framed in different ways. While the Respondent/Bank framed the charge against the Petitioner that the Petitioner has fraudulently prepared withdrawal forms forging the signature of account holders and also unauthorisedly obtained payment from the payment cashier, with regard to Sri K.T. Raman, Special Assistant the Respondent/Bank has charged that he has passed the forged withdrawal form without verifying the specimen signature available at the branch and with regard to Mr. Varghese, Cash Assistant the Respondent/Bank charged that he has made payments to Mr. Muthukumar, namely the Petitioner for the forged withdrawals prepared, posted and passed by the Petitioner in various savings bank accounts of the branch and thus, he has failed to make payment to the drawers of the withdrawal forms. Even though at the time of domestic enquiry the Respondent/Bank has not mentioned any investigation, they have admitted in the Counter Statement before this Tribunal that investigation was conducted by the Respondent/Bank authorities and on the result of investigation report they have framed the charge. But, neither the investigation report nor the investigating officer was examined before the domestic enquiry. Further, the Respondent/Bank has not given any explanation for not examining the investigating officer or not producing the investigation report either before the domestic enquiry or before this Tribunal. Further, they have not stated under what circumstances or under what proof they have come to the conclusion that the Petitioner has forged the withdrawal slips and obtained the payment from the payment cashier and they have also not stated under what circumstances or from which proof they have come to the conclusion that the Special Assistant namely Mr. K.T. Raman has only passed the forged withdrawal forms for cash payment without verifying the specimen signature or how they have come to the conclusion that payment cashier namely Mr. Varghese has paid cash to Sri Muthukumar. Though the Respondent/Bank alleged that they have conducted elaborate enquiry with regard to the Petitioner, they have not produced any iota of evidence to prove that the Petitioner has obtained cash from the payment cashier. Though they relied on the statement given by Mr. Varghese, payment cashier, the said person has not been examined in the domestic enquiry and the said person has not been subjected to cross-examination of the

Petitioner. Similarly, the special assistant also was not examined before this Tribunal nor subjected to cross-examination. Under such circumstances, only on the presumption and assumption. The Enquiry Officer has come to the conclusion that charges framed against the Petitioner have been proved and the Disciplinary Authority without applying his mind has come to the conclusion that the charges framed against the Petitioner have been proved. The charges framed against Sri K. T. Raman, Special Assistant in Ex. M2 and charges framed against Mr. Varghese in Ex. M4 and charges framed against the Petitioner under Ex. W21 when compared to charge A in Ex. M2 is categorical that the recipient of Ex. M2 has passed the forged withdrawal forms without verifying the specimen signature, whereas the charge Ex. W21 says the Petitioner has fraudulently prepared the withdrawal forms forging the signature of account holder and posted the same in ledger accounts and the author of Exs. M2 and W21 namely the Assistant General Manager, Region II, Coimbatore has come to the conclusion that the Petitioner alone has forged the vouchers and the special assistant namely Sri K. T. Raman has only passed the forged vouchers without verifying the same. In the chargesheet under Ex. M2 also he has not mentioned who has forged the withdrawal forms. Similarly, in the chargesheet under Ex. W21 also he has not mentioned who has passed the voucher. Though the withdrawal forms have been marked in this case, no one in their evidence has stated who has forged the signature of account holders in the withdrawal forms. Further, in the findings, the Enquiry Officer has not mentioned about the forger and forgery at all. Therefore, when there is no finding in respect of the alleged aspect of forgery both the Enquiry Officer and Disciplinary Authority have not stated how they have come to the conclusion that the charge has been proved against the Petitioner. The Enquiry Officer has stated against Sri K. T. Raman that the employee has passed 13 S.B. withdrawal forms aggregating Rs. 1,43,500 as per details mentioned in the chargesheet for cash payment without verifying the specimen signature. But, the Enquiry Officer has not stated that the withdrawal was forged in his findings. Thus, the basic structure of the story is found to be wholly unreliable. Though the Respondent/Bank has produced nine witnesses they have not deposed that withdrawal forms are forged only by the Petitioner and in the absence of any convincing proof about forgery, the conclusion of the Disciplinary Authority that charge (c) under Ex. W21 has been proved is without any basis. In the chargesheet under Ex. W21 issued to the Petitioner charge (b) contains 22 items of withdrawals and charge (c) contains 14 items of withdrawals, charge (d) contains one item of withdrawal and charge (e) contains one item of withdrawal. But, the learned representative of the Petitioner contended that though it is alleged that withdrawal forms were forged by the Petitioner, the said allegation has not been established before the domestic enquiry and therefore, the findings of the Enquiry Officer and also Disciplinary

Authority are perverse. Further, both the Enquiry Officer and Disciplinary Authority have held that charge (e) under Ex. W21 was not established. But in Ex. M5 which is the copy of the order of Disciplinary Authority with regard to Mr. Varghese, the same charge which is mentioned as item 35 in charge (a) in Ex. M4 as proved which will clearly show that neither the Enquiry Officer nor the Disciplinary Authority has applied their mind properly. In the domestic enquiry, the Respondent/Bank has brought the explanation to the chargesheet under Ex. M4 given by Mr. Varghese which has been marked as exhibit, but Mr. Varghese was not examined before the enquiry. Without examining the said Mr. Varghese in the enquiry and without cross-examination of the said witness, the Enquiry Officer and Disciplinary Authority have relied on the statement of Mr. Varghese who is one of the charge sheeted employees which shows the perverse findings of the Enquiry Officer. Further, though the Enquiry Officer and Disciplinary Authority have accepted the statement of Mr. Varghese, payment cashier, for what reason they have stated that they have not accepted the statement given by the Petitioner. This itself clearly shows that the findings of the Enquiry Officer are perverse and the findings of the Enquiry Officer is not supported by any legal evidence. Though the Respondent/Bank has produced the chargesheet issued to Mr. A. John Devadoss and though some of the charges are identical with regard to the Petitioner, they have charged the said Manager that he has passed the vouchers without exercising due diligence and further it is alleged that the Petitioner has unauthorisedly or fraudulently transferred Rs. 3,58,780 from STDR account to S.B. account of Smt. Ambujam to an extent of Rs. 2,69,280 and the S.B. account of Smt. Nagalakshmi to an extent of Rs. 89,500 and transfer Rs. 2,40,732 from STDR interest account to STDR account and he has not exercised due diligence which resulted in non surfacing of the fraud committed by the Petitioner. But, they have not stated any reason how for such a long period from the year 1999 to 2001 the management has not exercised due diligence to commit the fraud of more than several lakhs and that too a clerk of the Respondent/Bank. Therefore, the higher ups to escape from their liability and serious charge has made the Petitioner as a scapegoat and the Petitioner who is a clerk has done the work as per instructions of the Manager and Cashier and he has been held for all the lapses and also the frauds committed by the Manager, Cashier and also the Special Assistant. It is further argued on behalf of the Petitioner that the Petitioner has all along given complaint about the Manager, Special Assistant and also cashier with regard to their malpractices and also their misdeeds. But the higher ups have not heeded to the request of the Petitioner, on the other hand, they have taken action against the Petitioner that he has prepared the forged vouchers and obtained the money from the cashier. The quasi-judicial authorities namely Enquiry Officer and Disciplinary Authority have turned a blind eye to the

submission made by the Petitioner. Though the Respondent/Bank has stated that they have taken action against the Manager Mr. Johan Devadoss, who has passed the related vouchers and who was alleged to be negligent in his duties, they have awarded a punishment of reduction in basic pay by four stages for one year, whereas the Petitioner who prepared the vouchers as per the direction of the Manager has been awarded an exemplary punishment of dismissal. When the Respondent/Bank has not proved with regard to forgery and with regard to receipt of cash by the Petitioner, it is false to contend that the Petitioner has received several lakhs by the fraud. In this case, The Deputy General Manager, Coimbatore, Zonal Office who is the Disciplinary Authority against the officer namely Mr. John Devadoss, is the Appellate Authority for the Petitioner. Therefore, the principles of natural justice has not been followed in this case. Further, when the charge framed against the Manager has been issued namely on 14-12-2001, he has come to a prejudicial view that the Petitioner has forged the vouchers and this charge to Sri John Devadoss was issued on 14-12-01 which is earlier to the charge issued to the Petitioner namely 31-12-2001. Thus, the charge framed against the Petitioner is with the prejudiced mind of the officers. Further, though it is alleged that the Petitioner has prepared vouchers with forged signature of the customers, the letters from the customers were obtained subsequent to the framing of charge which itself clearly shows that they have prepared the evidence subsequent to the framing of charge. No doubt, nine account holders have been examined in the enquiry, but their alleged letters which are marked as prosecution exhibits were procured after issuance of the chargesheet namely after 31-12-2001. Further, the Respondent/Bank has not produced related vouchers from the records section and they have not further alleged that they are not available in the bank. Thus, there is not even an iota of evidence that the Petitioner has raised fictitious credits and obtained cash fraudulently. Under such circumstances, the findings of Enquiry Officer and the Disciplinary Authority that charges framed against the Petitioner have been proved is without any substance. Further, with regard to destruction also there is not even a single witness has spoken that the Petitioner has destroyed the account opening form and transaction sheet or ledger sheet. But, the Enquiry Officer has stated that probability or more for destruction of the records by the Petitioner and he has held that charge has been proved, but it is nothing but surmises of the Enquiry Officer.

9. But, as against all these contentions, the learned counsel for the Respondent contended that though the Respondent/Bank has not stated how they have come to the conclusion that the Petitioner has forged the vouchers and made fictitious credits in the accounts, only during the investigation, it was elicited from the account holders and from their evidence, they have come to the conclusion that the Petitioner has forged the vouchers and made fictitious entries in the accounts and obtained cash from the bank.

10. But, I am not inclined to accept the contention of the learned counsel for the Respondent because, it is alleged that these malpractices were done by the staff of the bank for a long period of two years and they have not stated from which source they have come to the conclusion that Petitioner alone has forged the signature of the account holders and made entries in the ledger. Further, they have not alleged that only one voucher has been forged by the Petitioner but they have alleged several vouchers were forged by the Petitioner and further alleged that the cash was obtained by the Petitioner. It is very hard to believe that the Petitioner who is a clerk has made forgery without the knowledge of the Manager, without the knowledge of the passing clerk and also without the knowledge of the cashier has received the amount from the bank. Therefore, I find much force in the contention of the representative for the Petitioner that only to wriggle out the situation, the Petitioner was made as a scapegoat.

11. The representative for the Petitioner further argued that the punishment of dismissal by the Disciplinary Authority is not only on the charges said to have been proved but also for the alleged loss of Rs. 6,40,820 which aspect of the so-called loss came to be incorporated only in the final order of punishment. It was not mentioned in the charge sheet issued to the Petitioner and therefore, the punishment imposed upon the Petitioner suffers from violation of principles of natural justice. Further, the documents relied on by the respondent/Bank were given only at the enquiry and not prior to the commencement of enquiry which is a violation of provisions of Bipartite Settlement and also violative of principles of natural justice. Only to support their case, the Respondent/Bank has obtained letters from certain account holders after the issuance of charge sheet which proves that allegations were foisted against the Petitioner and as an afterthought. Original vouchers and documents were not brought before the enquiry and only Xerox copies thereof became exhibits without any attestation to the effect that they are true copies of originals. Even though the Petitioner has objected at the time of marking, the Enquiry Officer has not heard the Petitioner's objection at that time. No doubt, the Respondent has alleged that originals are with the police and they have not established before this Tribunal what are the documents which were given to the police for investigation and they have made bald allegation that all the originals are with the police for investigation. Further, the representative for the Petitioner argued that the cumulative effect of all these things will clearly establish that the findings of the Enquiry Officer is perverse. Further, the Disciplinary Authority has also held that charge sheeted employee failed to disprove the charges against him and thus, he has made the burden of proving the Petitioner's innocence at the first instance. Therefore, the enquiry is nothing but a farce enquiry to fulfil the formalities and it is not a real enquiry for the charges made against the

Petitioner. Though in the suspension order, copy of which is marked as Ex. W1, wherein there was an allegation of misappropriation of funds in S.B. account of Mr. Rajkumar, but in the subsequent charge sheet, it has not been mentioned, thereby making the suspension order as a defective document. Further, the discrimination of unfair labour practice on the part of the Disciplinary Authority are quite clear from the framing of charges against Sri K. T. Raman, Special Assistant, Mr. Varghese, Cashier (Payment) and further the quantum of punishment imposed on them also clearly establish the discrimination and unfair labour practice exercised by the Disciplinary Authority. Further, the Disciplinary Authority has not considered the previous records of the concerned employee namely the Petitioner. Thus, the entire disciplinary proceedings initiated and concluded against the Petitioner stand totally vitiated on account of violation of principles of natural justice, denial of reasonable opportunity and so on. Therefore, he prays that an award may be passed in favour of the Petitioner.

12. I find much force in the contention of the learned representative of the Petitioner. As I have already pointed out though it is alleged that a fraud was committed against the Respondent/Bank, the Respondent/Bank has not stated under what circumstances or under what proof they have come to the conclusion that the Petitioner alone has forged the vouchers and made fictitious entries in the ledger and other records and obtained cash. Under such circumstances, the Petitioner was singled out by the Respondent/Management in order to protect some of the officers of the Respondent/Bank. Therefore, I find the findings of the Enquiry Officer and also the Disciplinary Authority are perverse and not justified.

13. The representative for the Petitioner further relied on the rulings reported in 1969 SCC 983 CENTRAL BANK OF INDIA Vs. P.C. JAIN, wherein the Supreme Court has held that "test of perversity is that findings may not be supported by any legal evidence at all. There are two cases where the findings of a domestic Tribunal like the Enquiry Officer dealing with disciplinary proceedings against a workman can be interfered with and these two are cases in which the findings are not based on legal evidence or are such as no reasonable person could have arrived at on the basis of the material before the Tribunal and in each of these cases, the findings are treated as perverse." He also relied on the rulings of unreported case of Madras High Court in W.P. No. 7988 of 1995 R. VIJAYARANGAN Vs. STATE BANK OF INDIA, wherein the Madras High Court has in a similar case has come to the conclusion that "no opportunity at all had been given to cross examine the persons whose statement have been ultimately relied upon by the Disciplinary Authority. Even assuming the test laid down in this latest decision is applicable, one can come to conclusion without any hesitation whatsoever that prejudice was writ large in the method adopted by the Enquiry Officer. The Enquiry Officer seems to have placed

reliance on the statement of those persons even though those persons were not examined by the Enquiry Officer and obviously no opportunity of cross examination has been given. The procedure adopted as already indicated was contrary to what had been emphatically stated by Supreme Court in AIR 1969 SC 983 and other decisions of Supreme Court noticed in the said decision." Relying on these decisions, the representative for the Petitioner argued that the findings of the Enquiry Officer are not based on any legal evidence at all and therefore, the findings is perverse.

14. As I have already stated, I find much force in the contention of the representative for the Petitioner. As I have already stated there is not even an iota of evidence to show that the Petitioner has forged the withdrawal slips and obtained cash from the Respondent/Bank. Under such circumstances, I find the action of the Respondent/Bank in dismissing the Petitioner from service is not legal and justified.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled ?

15. In view of my foregoing findings that the action of the Respondent/Bank in dismissing the Petitioner from service is not legal and justified, I find the Petitioner is to be reinstated in services of the Respondent/Bank. In this case, the Petitioner has also claimed back wages and other attendant benefits. Though I find that the Petitioner is entitled to attendant benefits, I find he is not entitled to back wages, because in this case, it cannot be said that the Petitioner is an innocent and he has made the entries and even as per his admission, he has made these entries as per the instructions of the Manager and other officials. Under such circumstances, I find the Petitioner is not an innocent to make these fictitious entries. Therefore, he has also colluded with the other officials in the fraud committed against the bank. But, since the Respondent/Bank has not proved the charges framed against the Petitioner, since the Petitioner alone is singled out to safeguard the other wrong doers, I find the Petitioner is not entitled to back wages as claimed by him.

16. In the result, I direct the Respondent/Management to reinstate the Petitioner into service with continuity of service and all other attendant benefits, but with regard to back wages, he is not entitled for the same. No Costs.

17. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th August, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Petitioner : None

For the Respondent : MW1 Sri O.N. Govindaraj

Documents Marked :—

For the I Party/Claimant :—

| Ex. No. | Date | Description |
|---------|----------|---|
| W1 | 24-02-01 | Xerox copy of the suspension order issued to Petitioner |
| W2 | 25-03-01 | Xerox copy of the representation given by Petitioner to AGM of Respondent/Bank |
| W3 | 09-05-01 | Xerox copy of the telegram sent to Petitioner |
| W4 | 31-07-01 | Xerox copy of the letter from Respondent/Bank to Petitioner calling for explanation |
| W5 | 29-08-01 | Xerox copy of the reply given by the Petitioner |
| W6 | 30-01-02 | Xerox copy of the explanation to Charge Sheet |
| W7 | 11-02-02 | Xerox copy of the letter of Disciplinary Authority |
| W8 | 12-04-02 | Xerox copy of the letter from Enquiry Officer to Petitioner |
| W9 | 28-05-02 | Xerox copy of the enquiry proceedings |
| W10 | 03-06-02 | Xerox copy of the letter to Enquiry Officer by Petitioner |
| W11 | 05-11-02 | Xerox copy of the reply given by Enquiry Officer to Petitioner |
| W12 | 16-11-02 | Xerox copy of the submission of Petitioner on the brief of Presenting Officer |
| W13 | 21-01-03 | Xerox copy of the report & findings of Enquiry Officer |
| W14 | 06-02-03 | Xerox copy of the letter of Disciplinary Authority to Petitioner |
| W15 | 03-03-03 | Xerox copy of the submissions made by Petitioner |
| W16 | 28-05-03 | Xerox copy of the 2nd show cause notice |
| W17 | 10-06-03 | Xerox copy of the reply given by Petitioner |
| W18 | 19-07-03 | Xerox copy of the order of punishment. |

W19 05-09-03 Xerox copy of the appeal preferred by Petitioner

W20 15-11-03 Xerox copy of the order of Appellate Authority

W21 31-12-01 Xerox copy of the Charge Sheet issued to Petitioner

For the II Party/Management :—

| Ex. No. | Date | Description |
|-----------|----------|---|
| M1 series | Nil | Xerox copy of the exhibits filed in enquiry proceedings |
| M2 | 31-12-01 | Xerox copy of the Charge Sheet issued to K.T. Raman |
| M3 | 17-06-03 | Xerox copy of the order of Disciplinary Authority |
| M4 | 31-12-01 | Xerox copy of the Charge Sheet issued to Mr. Varghese |
| M5 | 17-06-03 | Xerox copy of the order of Disciplinary Authority |
| M6 | 14-12-01 | Xerox copy of the Charge Sheet issued to Mr. Devadoss |
| M7 | 26-10-02 | Xerox copy of the order of appointing authority |
| M8 | 17-06-03 | Xerox copy of the letter from Disciplinary Authority to Mr. Varghese |
| M9 | 23-01-02 | Xerox copy of the letter from Disciplinary Authority to Mr. John Devadoss |

नई दिल्ली, 14 नवम्बर, 2006

का. आ. 4681.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अजमेर के पंचाट (संदर्भ संख्या 11/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2006 को प्राप्त हुआ था।

[सं. एल-41011/43/1998-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2006

S.O. 4681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (11/99) of the Industrial Tribunal/Labour Court, Ajmer now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 13-11-2006.

[No. L-41011/43/1998-IR (B-I)]

AJAY KUMAR, Desk Officer

अनुबंध

न्यायालय श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण,
अजमेर

सी आई टी आर नं. 11/99

[रेफरेंस संख्या एल-41011/43/98/आई आर (बी.-I)
नई दिल्ली 3-5-1999]डिवीजनल चेयरमैन, वेस्टर्न रेलवे कंट्रिक्टर एम्प्लॉयज यूनियन, मार्फत
वेस्टर्न रेलवे एम्प्लॉयज यूनियन, स्टेशन रोड, अजमेर

— — प्राथी यूनियन

बनाम

1. मैसर्स दलाल एण्ड कम्पनी मार्फत श्री सी. एम. दलाल स्पेक्टरम कॉमर्शियल सेंटर, नं. 1, पांचवी मंजिल, सेलापोज रोड, अहमदाबाद
2. दी डिवीजनल कॉमर्शियल मैनेजर वेस्टर्न रेलवे, अजमेर

— — अप्राथीगण/नियोजकगण

समक्ष : श्री गंगासिंह शेखावत आर एच जे एस

प्राथी की ओर से : श्री सुन्दर खेमानी यूनियन प्रतिनिधि
एवं श्री एन के गौतम अधिवक्ता

अप्राथी की ओर से : श्री बी. डी. भार्गव एवं श्री एल. के.
सोगानी अधिवक्तागण।

अवार्ड

डेस्क अधिकारी, श्रम मंत्रालय, नई दिल्ली से प्राप्त रेफरेंस इस प्रकार है :—

“Whether the demand (Exhibit No. 1) of Divisional Chairman Western Railway Contractors employees union against the Divisional Commercial Manager, Western Railway Ajmer and M/s. Dalal and Company (Contractor) Spectrum Commercial Centre No. 1, 5th Floor Salapose Road, Ahmedabad-1 is legal and justified. If not what relief the workmen are entitled to ?”

“Whether the action of Management of M/s Dalal and Company Spectrum Commercial Centre No. 1, 5th Floor, Salapose Road, Ahmedabad in terminating the services of Shri (1) Sunil Kewal Kishore (2) Danis (3) Edward (4) Daya Bansilal w.e.f. 4-3-91 is legal and justified. If not what relief the workmen are entitled to ?”

नोटिस के उपरान्त प्राथी पक्ष उपस्थित आये। प्राथी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत कर कथन किया है कि प्राथीगण अप्राथी सं. 2 दी डिवीजनल मैनेजर (कॉमर्शियल) वेस्टर्न रेलवे की अप्रवृत्त से अप्राथी सं. 1 मैसर्स दलाल एण्ड कम्पनी, सोल प्रोप्राइटर (कंट्रिक्टर)

स्पेक्टरम कामर्शियल सेंटर नं. 1, पांचवी मंजिल, सेलापोज रोड, अहमदाबाद में रेलवे पार्सल के माल को उतारने व चढ़ाने के कार्य करते थे। प्राथीगण ने प्रत्येक वर्ष में 240 दिन से अधिक कार्य किया है। आगे कथन किया है कि उनकी ओर से समय-समय पर श्रम अधिनियमों के तहत पेमेंट आफ वेजेज, कार्य से अधिक घण्टों के लिये अधिश्रम छुट्टियों व साप्ताहिक अवकाश एवं अन्य सुविधाओं के लिये समय-समय पर विवाद उठाये गये थे। प्राथीगण का कथन है कि उनकी ओर से अप्राथीगण को अपना मांग पत्र दिया गया था। अप्राथीगण और प्राथीगण की मांगों पर अभी विचार भी नहीं हुआ कि इस दौरान इन प्राथीगणों में से चार व्यक्तियों को सेवा से निष्कासित कर दिया गया। जिस पर श्रमिकगण हड़ताल पर चले गये।

प्राथीगणों की ओर से सहायक श्रम आयुक्त (केन्द्रीय) अजमेर को अपना मांगपत्र दिनांक 22-3-91 (अनेक्सचर-2) दिया गया जिस पर उक्त समझौता अधिकारी महोदय ने अप्राथीगण संख्या-1 व 2 को तलब किया और समझौता वार्ता सम्पन्न करवाई किन्तु अप्राथीगण के असहयोगपूर्ण रवैये के कारण उक्त वार्ता असफल हो गई। श्रीमान् सहायक श्रम आयुक्त (केन्द्रीय) ने अंत में यह निर्णय किया कि यह मामला राजस्थान सरकार से सम्बन्धित है और केन्द्रीय सरकार (रेलवे) से सम्बन्धित नहीं है। इस प्रकार उक्त कार्यवाही समाप्त कर दी गई। इस पर प्राथीगण ने उक्त विवाद को राज्य सरकार से रेफर करवाया। चीफ पार्सल सुपरवाइजर के पत्र दि. 11-2-91 के अनुसार उसके निर्देश पर उक्त चारों श्रमिकों को निष्कासित किया गया। धारा 25 एफ की पालना नहीं की गई। डिवीजनल कॉमर्शियल मैनेजर के लिखित कथन दि. 18-3-96 के अनुसार उक्त कर्मचारियों का रेलवे के हित के विरुद्ध कार्य करने का आरोप लगाया गया और स्टेशन क्षेत्र से निष्कासित करने का कथन किया गया। रेलवे प्रिंसिपल एम्प्लॉयर होने के कारण उपस्थिति और वेतन रजिस्टर घोषित करने के लिये उत्तरदायी है। उक्त श्रमिकों का कार्य स्थाई प्रकृति का है। जो स्थाई कर्मचारियों के द्वारा ही किया जाता है। यदि इन श्रमिकों को ठेकेदार के श्रमिक माना जावे तो भी उनको रेलवे के स्थाई और नियमित कर्मचारी घोषित किया जावे। लम्बी सेवा अवधि के कारण रेलवे के स्थाई कर्मचारी होने के अधिकारी हैं। 120 दिन कार्य करने के कारण अस्थाई स्टेटस घोषित किया जाना चाहिये। अंत में मांग पत्र स्वीकार करते हुए उक्त चारों श्रमिकों को गत वेतन भत्तों सहित पुनर्स्थापित करने की प्रार्थना की।

प्रतिपक्षी रेलवे ने उत्तर में अंकित किया है कि पश्चिम रेलवे के मुख्यालय द्वारा हस्तगत कार्य का ठेका माल पार्सल चढ़ाई एवं उतराई के लिये लेबर सप्लाई करने हेतु प्रतिपक्षी सं. 1 दलाल एण्ड कम्पनी को तीन वर्ष के लिये दिया गया था। श्रमिकों की नियुक्ति मण्डल वाणिज्यिक अधीक्षक से अनुमोदन नहीं लिया गया है। 240 दिन तक उक्त श्रमिकों ने कार्य नहीं किया। सभी श्रमिक ठेकेदार के सुपरवीजन में कार्य करते थे। उनके भुगतान छुट्टी सम्बन्धित सभी लेखा जोखा ठेकेदार के अधीन होता था। प्रिंसिपल एम्प्लॉयर के नाते स्टेशन अधीक्षक भुगतान होने की देखरेख रखता था। श्रमिकों का शोषण कभी नहीं हुआ। मुख्य पार्सल पर्यवेक्षक से निर्देश आया था कि उक्त चारों श्रमिक कार्य में लापरवाही बरतते हैं। अतः रेलवे क्षेत्र से हटाया जावे। प्रशासनिक हित में यह निर्देश दिया गया था कि सेवा से निकालने हेतु कोई निर्देश नहीं दिये। दिनांक

4-3-91 को कोई कार्यवाही नहीं की गई। अंत में क्लेम निरस्त करने की प्रार्थना की है।

प्रतिपक्षी दलाल एण्ड कम्पनी ने अपने उत्तर में अंकित किया है कि उसके और रेलवे प्रशासन के मध्य संविदा और नई संविदा निरंतर होती रही। उक्त श्रमिकों ने क्लेम में अंकित वर्षों तक कार्य नहीं किया है। उक्त श्रमिकों को 11-3-91 के पत्र के अनुसार हटाया गया है। अंत में क्लेम निरस्त करने की प्रार्थना की है।

प्रार्थी की ओर से सुन्दर खेमानी ने शपथ-पत्र प्रतिपरीक्षण करवाया है। प्रलेखीय साक्ष्य में प्रदर्श डब्ल्यू-1 से प्रदर्श डब्ल्यू-4 प्रदर्शित करवाकर प्रस्तुत किये हैं। प्रतिपक्षी की ओर से कोई प्रलेखीय या मौखिक साक्ष्य प्रस्तुत नहीं हुई है।

उभय पक्ष का श्रवण किया और पत्रावली का अवलोकन किया।

प्रार्थी की ओर से प्रस्तुत दृष्टांत 2004 (1) ए.आई.एस.एल.जे. (3) पेज 319 और प्रतिपक्षी की ओर से प्रस्तुत दृष्टांत 2002 (लेब आई सी 987 और 2003 डब्ल्यू एल सी (राज.) यू.सी. 424 का ससम्मान अध्ययन किया।

प्रस्तुत विवाद में यह निर्णीत किया जाना है कि उक्त श्रमिकों का प्रिंसिपल एम्प्लॉयर रेलवे है अथवा ठेकेदार। उसके पश्चात् यह निर्धारित करना है कि मांग पत्र की मांग संख्या-1 व 2 उचित एवं विधि सम्मत है अथवा नहीं।

मांग पत्र की मांगें निम्न प्रकार हैं :—

मांग नम्बर 1 :—रेलवे स्टेशन अजमेर पर लोडिंग अनलोडिंग का कार्य करने वाले सभी श्रमिकों को जब से वह सेवा में आये हैं उन्हें रेलवे का श्रमिक घोषित किया जावे एवं उन्हें सभी रेलवे के अनुसार दिये जावे।

मांग पत्र सं. 2 :—अप्रार्थीगणों द्वारा 4 श्रमिक श्री विल्फ्रेड, सुनिल केवल किशोर, और डेनिस और दया बंसीलाल को दिनांक 11-3-91 को गैर-कानूनी तरीके से सेवामुक्त कर दिया है उन्हें पुनः सेवा में पिछले वेतन एवं अन्य सभी लाभ दिलवाते हुए रखना।

मैंने उभय पक्ष के तर्कों पर विचार कर लिया है। उभय पक्ष ने अपने-अपने क्लेम और उत्तर में अंकित कथनों की बहस में पुनरावृत्ति की है। रेफरेंस के अनुसार चारों श्रमिकों की सेवामुक्ति 4-3-91 बताई गई है। जबकि क्लेम के अनुसार सेवामुक्ति दि. 11-3-91 को की गई है। 2003 डब्ल्यू एल सी (राज.) यू.सी. 424 महावीर कन्डक्टर के दृष्टांत के अनुसार रेफरेंस में अंकित सेवामुक्ति की दिनांक को यह न्यायालय सुधार नहीं कर सकता है। इस सम्बन्ध में प्रार्थी को राज्य सरकार से दिनांक में शुद्धि हेतु शुद्धि पत्र जारी करना पड़ेगा। इसके अतिरिक्त जिन चार श्रमिकों की सेवामुक्ति की वैधता का यह विवाद है।

उनमें से किसी भी श्रमिक को साक्ष्य में प्रस्तुत नहीं किया गया। मांग नम्बर 1 के सम्बन्धित 75 श्रमिकों में से भी किसी भी श्रमिक को प्रस्तुत नहीं किया गया। प्रदर्श डब्ल्यू-1 श्रमिकों की चार पेज की सूची पेश है। किस स्थान पर काम किया है यह अंकित नहीं है। श्रमिकों का पता भी अंकित नहीं है। ऐसी स्थिति में प्रदर्श डब्ल्यू-1 निरर्थक है। प्रदर्श डब्ल्यू-4 के अनुसार श्रमिकों को स्टेशन से हटाने के निर्देश दिये गये थे सेवा से हटाने के निर्देश नहीं दिये थे। ठेकेदार द्वारा सेवामुक्ति के सम्बन्ध में पत्रों को भी प्रस्तुत नहीं किया गया है। दलाल एण्ड कम्पनी के सोल प्रोप्राइटर सी. एम. दलाल की मृत्यु होने पर उसके विधिक प्रतिनिधि नहीं बनाये जाने से आदेश दि. 26-2-05 द्वारा मैसर्स दलाल एण्ड कम्पनी को पक्षकार से हटा दिया गया। रेफरेंस का पार्ट द्वितीय दलाल एण्ड कम्पनी के विरुद्ध होने से यह बिन्दु प्रार्थी के विरुद्ध निर्णीत होने योग्य है। मांग पत्र सं. 1 के सम्बन्ध में प्रार्थी के साक्षी श्री सुन्दर खेमानी ने प्रतिपरीक्षण में स्वीकार किया है कि यह गलत है कि श्रमिकों की नियुक्ति दलाल एण्ड कम्पनी ने की हो। इस प्रकार यह साक्षी अपने क्लेम के अभिवचन के विपरीत कथन कर रहा है। उसने आगे कथन किया है कि इन श्रमिकों का नियुक्ति पत्र नहीं देखा है। नियुक्ति की दिनांक उसे पता नहीं है। किस मजदूर ने कितने दिन काम किया इसका विवरण पेश नहीं किया। अनेक्सजर प्रदर्श-1 में कार्य करने के वर्ष यूनिन ने लिखे हैं जिसमें श्रमिकों के हस्ताक्षर नहीं हैं। श्रमिकों का कार्यस्थल और स्थाई पता भी नहीं है। यह चारों श्रमिक उससे व्यक्तिगत रूप से कभी नहीं मिले न ही यूनिन को लिखकर दिया। नौकरी के आदेश मौखिक थे। नौकरी से निकलवाने का आदेश किस ठेकेदार ने दिया वह उसे पता नहीं है। यह साक्षी यूनिन का अध्यक्ष है। किन्तु विवाद के समय वह मण्डल अध्यक्ष नहीं था। इस प्रकार इस साक्षी के कथनों से यह सिद्ध नहीं होता है कि उक्त श्रमिकों ने गत वर्ष में 240 दिन कार्य किया हो। यह भी सिद्ध नहीं होता है कि इन श्रमिकों द्वारा किये जाने वाला कार्य स्थाई प्रकृति का था। यह भी सिद्ध नहीं होता है कि इन श्रमिकों का प्रिंसिपल एम्प्लॉयर रेलवे था। अतः मेरे विनम्र मत में मांग नम्बर 1 व 2 उचित एवं वैध होना प्रार्थी सिद्ध नहीं कर सका है। सेवामुक्ति की वैधता को चुनौती भी प्रार्थी नहीं दे सका है।

आदेश

फलतः विवाद का उत्तर इस प्रकार से दिया जाता है कि मांग पत्र प्रदर्श-1 की मांग नम्बर 1 व 2 वैध और उचित होना प्रार्थी सिद्ध नहीं कर सका है। दलाल एण्ड कम्पनी के सोल प्रोप्राइटर की मृत्यु पर वैध प्रतिनिधि नहीं बनाये जाने से और सेवामुक्ति की दिनांक में शुद्धि नहीं करवाने से उक्त चारों श्रमिकों की सेवामुक्ति वैध एवं उचित मानी जाती है। प्रार्थीगण कोई अनुतोष प्राप्त करने के अधिकारी नहीं हैं।

अवाई आज दि. 7-10-06 को खुले न्यायालय में लिखवाया जाकर सुनाया गया।

जी. एस. शेखावत, न्यायाधीश